



## 96TH GENERAL ASSEMBLY

### State of Illinois

2009 and 2010

HB0966

Introduced 2/10/2009, by Rep. LaShawn K. Ford

#### SYNOPSIS AS INTRODUCED:

See Index

Creates the MR/DD Community Care Act and amends the Nursing Home Care Act. Provides that all intermediate care facilities for the developmentally disabled and long-term care for under age 22 facilities shall be licensed by the Department of Public Health under the MR/DD Community Care Act instead of under the Nursing Home Care Act. Makes the provisions in the MR/DD Community Care Act substantially the same as those in the Nursing Home Care Act, including provisions for the rights of residents and responsibilities of facilities, licensing, violations and penalties, and transfer or discharge of residents. Amends the Illinois Act on the Aging, the Illinois Health Facilities Planning Act, the Illinois Income Tax Act, the Nursing Home Administrators Licensing and Disciplinary Act, the Illinois Public Aid Code, the Nursing Home Grant Assistance Act, and the Unified Code of Corrections to make conforming changes. Effective immediately.

LRB096 03747 DRJ 13777 b

FISCAL NOTE ACT  
MAY APPLY

A BILL FOR

1 AN ACT concerning regulation.

2 **Be it enacted by the People of the State of Illinois,**  
3 **represented in the General Assembly:**

4 ARTICLE I. SHORT TITLE AND DEFINITIONS

5 Section 1-101. Short title. This Act may be cited as the  
6 MR/DD Community Care Act.

7 Section 1-102. Definitions. For the purposes of this Act,  
8 unless the context otherwise requires, the terms defined in  
9 this Article have the meanings ascribed to them herein.

10 Section 1-103. Abuse. "Abuse" means any physical or mental  
11 injury or sexual assault inflicted on a resident other than by  
12 accidental means in a facility.

13 Section 1-104. Access. "Access" means the right to:

14 (1) Enter any facility;

15 (2) Communicate privately and without restriction with  
16 any resident who consents to the communication;

17 (3) Seek consent to communicate privately and without  
18 restriction with any resident;

19 (4) Inspect the clinical and other records of a  
20 resident with the express written consent of the resident;

1 or

2 (5) Observe all areas of the facility except the living  
3 area of any resident who protests the observation.

4 Section 1-105. Administrator. "Administrator" means a  
5 person who is charged with the general administration and  
6 supervision of a facility and licensed, if required, under the  
7 Nursing Home Administrators Licensing and Disciplinary Act, as  
8 now or hereafter amended.

9 Section 1-106. Affiliate. "Affiliate" means:

10 (1) With respect to a partnership, each partner  
11 thereof.

12 (2) With respect to a corporation, each officer,  
13 director and stockholder thereof.

14 (3) With respect to a natural person: any person  
15 related in the first degree of kinship to that person; each  
16 partnership and each partner thereof of which that person  
17 or any affiliate of that person is a partner; and each  
18 corporation in which that person or any affiliate of that  
19 person is an officer, director or stockholder.

20 Section 1-107. Applicant. "Applicant" means any person  
21 making application for a license.

22 Section 1-108.1. Complaint classification. "Complaint

1 classification" means the Department shall categorize reports  
2 about conditions, care or services in a facility into one of  
3 three groups after an investigation:

4 (1) "An invalid report" means any report made under  
5 this Act for which it is determined after an investigation  
6 that no credible evidence of abuse, neglect or other  
7 deficiency relating to the complaint exists;

8 (2) "A valid report" means a report made under this Act  
9 if an investigation determines that some credible evidence  
10 of the alleged abuse, neglect or other deficiency relating  
11 to the complaint exists; and

12 (3) "An undetermined report" means a report made under  
13 this Act in which it was not possible to initiate or  
14 complete an investigation on the basis of information  
15 provided to the Department.

16 Section 1-109. Department. "Department" means the  
17 Department of Public Health.

18 Section 1-110. Director. "Director" means the Director of  
19 Public Health or his or her designee.

20 Section 1-111. Discharge. "Discharge" means the full  
21 release of any resident from a facility.

22 Section 1-112. Emergency. "Emergency" means a situation,

1 physical condition or one or more practices, methods or  
2 operations which present imminent danger of death or serious  
3 physical or mental harm to residents of a facility.

4 Section 1-113. Facility. "Facility" means an intermediate  
5 care facility for the developmentally disabled or a long-term  
6 care for under age 22 facility, whether operated for profit or  
7 not, which provides, through its ownership or management,  
8 personal care or nursing for 3 or more persons not related to  
9 the applicant or owner by blood or marriage. It includes  
10 intermediate care facilities for the mentally retarded as the  
11 term is defined in Title XVIII and Title XIX of the federal  
12 Social Security Act.

13 "Facility" does not include the following:

14 (1) A home, institution, or other place operated by the  
15 federal government or agency thereof, or by the State of  
16 Illinois, other than homes, institutions, or other places  
17 operated by or under the authority of the Illinois  
18 Department of Veterans' Affairs;

19 (2) A hospital, sanitarium, or other institution whose  
20 principal activity or business is the diagnosis, care, and  
21 treatment of human illness through the maintenance and  
22 operation as organized facilities therefore, which is  
23 required to be licensed under the Hospital Licensing Act;

24 (3) Any "facility for child care" as defined in the  
25 Child Care Act of 1969;

1           (4) Any "community living facility" as defined in the  
2 Community Living Facilities Licensing Act;

3           (5) Any "community residential alternative" as defined  
4 in the Community Residential Alternatives Licensing Act;

5           (6) Any nursing home or sanatorium operated solely by  
6 and for persons who rely exclusively upon treatment by  
7 spiritual means through prayer, in accordance with the  
8 creed or tenets of any well recognized church or religious  
9 denomination. However, such nursing home or sanatorium  
10 shall comply with all local laws and rules relating to  
11 sanitation and safety;

12           (7) Any facility licensed by the Department of Human  
13 Services as a community integrated living arrangement as  
14 defined in the Community Integrated Living Arrangements  
15 Licensure and Certification Act;

16           (8) Any "supportive residence" licensed under the  
17 Supportive Residences Licensing Act;

18           (9) Any "supportive living facility" in good standing  
19 with the program established under Section 5-5.01a of the  
20 Illinois Public Aid Code, except only for purposes of the  
21 employment of persons in accordance with Section 3-206.01;

22           (10) Any assisted living or shared housing  
23 establishment licensed under the Assisted Living and  
24 Shared Housing Act, except only for purposes of the  
25 employment of persons in accordance with Section 3-206.01;

26           (11) An Alzheimer's disease management center

1 alternative health care model licensed under the  
2 Alternative Health Care Delivery Act; or

3 (12) A home, institution, or other place operated by or  
4 under the authority of the Illinois Department of Veterans'  
5 Affairs.

6 Section 1-114. Guardian. "Guardian" means a person  
7 appointed as a guardian of the person or guardian of the  
8 estate, or both, of a resident under the "Probate Act of 1975",  
9 as now or hereafter amended.

10 Section 1-114.01. Identified offender. "Identified  
11 offender" means a person who has been convicted of any felony  
12 offense listed in Section 25 of the Health Care Worker  
13 Background Check Act, is a registered sex offender, or is  
14 serving a term of parole, mandatory supervised release, or  
15 probation for a felony offense.

16 Section 1-114.1. Immediate family. "Immediate family"  
17 means the spouse, an adult child, a parent, an adult brother or  
18 sister, or an adult grandchild of a person.

19 Section 1-115. Licensee. "Licensee" means the individual  
20 or entity licensed by the Department to operate the facility.

21 Section 1-116. Maintenance. "Maintenance" means food,

1 shelter and laundry services.

2 Section 1-116.5. Misappropriation of a resident's  
3 property. "Misappropriation of a resident's property" means  
4 the deliberate misplacement, exploitation, or wrongful  
5 temporary or permanent use of a resident's belongings or money  
6 without the resident's consent.

7 Section 1-117. Neglect. "Neglect" means a failure in a  
8 facility to provide adequate medical or personal care or  
9 maintenance, which failure results in physical or mental injury  
10 to a resident or in the deterioration of a resident's physical  
11 or mental condition.

12 Section 1-118. Nurse. "Nurse" means a registered nurse or a  
13 licensed practical nurse as defined in the Nurse Practice Act.

14 Section 1-119. Owner. "Owner" means the individual,  
15 partnership, corporation, association or other person who owns  
16 a facility. In the event a facility is operated by a person who  
17 leases the physical plant, which is owned by another person,  
18 "owner" means the person who operates the facility, except that  
19 if the person who owns the physical plant is an affiliate of  
20 the person who operates the facility and has significant  
21 control over the day to day operations of the facility, the  
22 person who owns the physical plant shall incur jointly and

1 severally with the owner all liabilities imposed on an owner  
2 under this Act.

3 Section 1-120. Personal care. "Personal care" means  
4 assistance with meals, dressing, movement, bathing or other  
5 personal needs or maintenance, or general supervision and  
6 oversight of the physical and mental well being of an  
7 individual, who is incapable of maintaining a private,  
8 independent residence or who is incapable of managing his  
9 person whether or not a guardian has been appointed for such  
10 individual.

11 Section 1-121. Reasonable hour. "Reasonable hour" means  
12 any time between the hours of 10 a.m. and 8 p.m. daily.

13 Section 1-122. Resident. "Resident" means a person  
14 residing in and receiving personal care from a facility.

15 Section 1-123. Resident's representative. "Resident's  
16 representative" means a person other than the owner, or an  
17 agent or employee of a facility not related to the resident,  
18 designated in writing by a resident to be his representative,  
19 or the resident's guardian, or the parent of a minor resident  
20 for whom no guardian has been appointed.

21 Section 1-125. Stockholder. "Stockholder" of a corporation

1 means any person who, directly or indirectly, beneficially  
2 owns, holds or has the power to vote, at least 5% of any class  
3 of securities issued by the corporation.

4 Section 1-125.1. Student intern. "Student intern" means  
5 any person whose total term of employment in any facility  
6 during any 12 month period is equal to or less than 90  
7 continuous days, and whose term of employment is either:

8 (1) an academic credit requirement in a high school or  
9 undergraduate institution, or

10 (2) immediately succeeds a full quarter, semester or  
11 trimester of academic enrollment in either a high school or  
12 undergraduate institution, provided that such person is  
13 registered for another full quarter, semester or trimester  
14 of academic enrollment in either a high school or  
15 undergraduate institution which quarter, semester or  
16 trimester will commence immediately following the term of  
17 employment.

18 Section 1-126. Title XVIII. "Title XVIII" means Title XVIII  
19 of the federal Social Security Act as now or hereafter amended.

20 Section 1-127. Title XIX. "Title XIX" means Title XIX of  
21 the federal Social Security Act as now or hereafter amended.

22 Section 1-128. Transfer. "Transfer" means a change in

1 status of a resident's living arrangements from one facility to  
2 another facility.

3 Section 1-129. Type 'A' violation. A "Type 'A' violation"  
4 means a violation of this Act or of the rules promulgated  
5 thereunder which creates a condition or occurrence relating to  
6 the operation and maintenance of a facility presenting a  
7 substantial probability that death or serious mental or  
8 physical harm to a resident will result therefrom.

9 Section 1-130. Type 'B' violation. A "Type 'B' violation"  
10 means a violation of this Act or of the rules promulgated  
11 thereunder which creates a condition or occurrence relating to  
12 the operation and maintenance of a facility directly  
13 threatening to the health, safety or welfare of a resident.

14 ARTICLE II. RIGHTS AND RESPONSIBILITIES

15 PART 1. RESIDENT RIGHTS

16 Section 2-101. Constitutional and legal rights. No  
17 resident shall be deprived of any rights, benefits, or  
18 privileges guaranteed by law, the Constitution of the State of  
19 Illinois, or the Constitution of the United States solely on  
20 account of his status as a resident of a facility.

1           Section 2-101.1. Spousal impoverishment. All new residents  
2 and their spouses shall be informed on admittance of their  
3 spousal impoverishment rights as defined at Section 5-4 of the  
4 Illinois Public Aid Code, as now or hereafter amended and at  
5 Section 303 of Title III of the Medicare Catastrophic Coverage  
6 Act of 1988 (P.L. 100 360).

7           Section 2-102. Financial affairs. A resident shall be  
8 permitted to manage his own financial affairs unless he or his  
9 guardian or if the resident is a minor, his parent, authorizes  
10 the administrator of the facility in writing to manage such  
11 resident's financial affairs under Section 2-201 of this Act.

12           Section 2-103. Personal property. A resident shall be  
13 permitted to retain and use or wear his personal property in  
14 his immediate living quarters, unless deemed medically  
15 inappropriate by a physician and so documented in the  
16 resident's clinical record. If clothing is provided to the  
17 resident by the facility, it shall be of a proper fit.

18           The facility shall provide adequate storage space for the  
19 personal property of the resident. The facility shall provide a  
20 means of safeguarding small items of value for its residents in  
21 their rooms or in any other part of the facility so long as the  
22 residents have daily access to such valuables. The facility  
23 shall make reasonable efforts to prevent loss and theft of  
24 residents' property. Those efforts shall be appropriate to the

1 particular facility and may include, but are not limited to,  
2 staff training and monitoring, labeling property, and frequent  
3 property inventories. The facility shall develop procedures  
4 for investigating complaints concerning theft of residents'  
5 property and shall promptly investigate all such complaints.

6 Section 2-104. Medical treatment; records.

7 (a) A resident shall be permitted to retain the services of  
8 his own personal physician at his own expense or under an  
9 individual or group plan of health insurance, or under any  
10 public or private assistance program providing such coverage.  
11 However, the facility is not liable for the negligence of any  
12 such personal physician. Every resident shall be permitted to  
13 obtain from his own physician or the physician attached to the  
14 facility complete and current information concerning his  
15 medical diagnosis, treatment and prognosis in terms and  
16 language the resident can reasonably be expected to understand.  
17 Every resident shall be permitted to participate in the  
18 planning of his total care and medical treatment to the extent  
19 that his condition permits. No resident shall be subjected to  
20 experimental research or treatment without first obtaining his  
21 informed, written consent. The conduct of any experimental  
22 research or treatment shall be authorized and monitored by an  
23 institutional review committee appointed by the administrator  
24 of the facility where such research and treatment is conducted.  
25 The membership, operating procedures and review criteria for

1 institutional review committees shall be prescribed under  
2 rules and regulations of the Department.

3 (b) All medical treatment and procedures shall be  
4 administered as ordered by a physician. All new physician  
5 orders shall be reviewed by the facility's director of nursing  
6 or charge nurse designee within 24 hours after such orders have  
7 been issued to assure facility compliance with such orders.

8 According to rules adopted by the Department, every woman  
9 resident of child bearing age shall receive routine obstetrical  
10 and gynecological evaluations as well as necessary prenatal  
11 care.

12 (c) Every resident shall be permitted to refuse medical  
13 treatment and to know the consequences of such action, unless  
14 such refusal would be harmful to the health and safety of  
15 others and such harm is documented by a physician in the  
16 resident's clinical record. The resident's refusal shall free  
17 the facility from the obligation to provide the treatment.

18 (d) Every resident, resident's guardian, or parent if the  
19 resident is a minor shall be permitted to inspect and copy all  
20 his clinical and other records concerning his care and  
21 maintenance kept by the facility or by his physician. The  
22 facility may charge a reasonable fee for duplication of a  
23 record.

24 Section 2-104.1. Transfer of facility ownership after  
25 license suspension or revocation. Whenever ownership of a

1 private facility is transferred to another private owner  
2 following a final order for a suspension or revocation of the  
3 facility's license, the new owner, if the Department so  
4 determines, shall thoroughly evaluate the condition and needs  
5 of each resident as if each resident were being newly admitted  
6 to the facility. The evaluation shall include a review of the  
7 medical record and the conduct of a physical examination of  
8 each resident which shall be performed within 30 days after the  
9 transfer of ownership.

10 Section 2-104.2. Do Not Resuscitate Orders. Every facility  
11 licensed under this Act shall establish a policy for the  
12 implementation of physician orders limiting resuscitation such  
13 as those commonly referred to as "Do Not Resuscitate" orders.  
14 This policy may only prescribe the format, method of  
15 documentation and duration of any physician orders limiting  
16 resuscitation. Any orders under this policy shall be honored by  
17 the facility. The Department of Public Health Uniform DNR Order  
18 form or a copy of that form shall be honored by the facility.

19 Section 2-105. Privacy. A resident shall be permitted  
20 respect and privacy in his medical and personal care program.  
21 Every resident's case discussion, consultation, examination  
22 and treatment shall be confidential and shall be conducted  
23 discreetly, and those persons not directly involved in the  
24 resident's care must have his permission to be present.

1 Section 2-106. Restraints and confinements.

2 (a) For purposes of this Act:

3 (i) A physical restraint is any manual method or  
4 physical or mechanical device, material, or equipment  
5 attached or adjacent to a resident's body that the resident  
6 cannot remove easily and restricts freedom of movement or  
7 normal access to one's body. Devices used for positioning,  
8 including but not limited to bed rails, gait belts, and  
9 cushions, shall not be considered to be restraints for  
10 purposes of this Section.

11 (ii) A chemical restraint is any drug used for  
12 discipline or convenience and not required to treat medical  
13 symptoms. The Department shall by rule, designate certain  
14 devices as restraints, including at least all those devices  
15 which have been determined to be restraints by the United  
16 States Department of Health and Human Services in  
17 interpretive guidelines issued for the purposes of  
18 administering Titles XVIII and XIX of the Social Security  
19 Act.

20 (b) Neither restraints nor confinements shall be employed  
21 for the purpose of punishment or for the convenience of any  
22 facility personnel. No restraints or confinements shall be  
23 employed except as ordered by a physician who documents the  
24 need for such restraints or confinements in the resident's  
25 clinical record. Each facility licensed under this Act must

1 have a written policy to address the use of restraints and  
2 seclusion. The Department shall establish by rule the  
3 provisions that the policy must include, which, to the extent  
4 practicable, should be consistent with the requirements for  
5 participation in the federal Medicare program. Each policy  
6 shall include periodic review of the use of restraints.

7 (c) A restraint may be used only with the informed consent  
8 of the resident, the resident's guardian, or other authorized  
9 representative. A restraint may be used only for specific  
10 periods, if it is the least restrictive means necessary to  
11 attain and maintain the resident's highest practicable  
12 physical, mental or psychosocial well being, including brief  
13 periods of time to provide necessary life saving treatment. A  
14 restraint may be used only after consultation with appropriate  
15 health professionals, such as occupational or physical  
16 therapists, and a trial of less restrictive measures has led to  
17 the determination that the use of less restrictive measures  
18 would not attain or maintain the resident's highest practicable  
19 physical, mental or psychosocial well being. However, if the  
20 resident needs emergency care, restraints may be used for brief  
21 periods to permit medical treatment to proceed unless the  
22 facility has notice that the resident has previously made a  
23 valid refusal of the treatment in question.

24 (d) A restraint may be applied only by a person trained in  
25 the application of the particular type of restraint.

26 (e) Whenever a period of use of a restraint is initiated,

1 the resident shall be advised of his or her right to have a  
2 person or organization of his or her choosing, including the  
3 Guardianship and Advocacy Commission, notified of the use of  
4 the restraint. A recipient who is under guardianship may  
5 request that a person or organization of his or her choosing be  
6 notified of the restraint, whether or not the guardian approves  
7 the notice. If the resident so chooses, the facility shall make  
8 the notification within 24 hours, including any information  
9 about the period of time that the restraint is to be used.  
10 Whenever the Guardianship and Advocacy Commission is notified  
11 that a resident has been restrained, it shall contact the  
12 resident to determine the circumstances of the restraint and  
13 whether further action is warranted.

14 (f) Whenever a restraint is used on a resident whose  
15 primary mode of communication is sign language, the resident  
16 shall be permitted to have his or her hands free from restraint  
17 for brief periods each hour, except when this freedom may  
18 result in physical harm to the resident or others.

19 (g) The requirements of this Section are intended to  
20 control in any conflict with the requirements of Sections 1-126  
21 and 2-108 of the Mental Health and Developmental Disabilities  
22 Code.

23 Section 2-106.1. Drug treatment.

24 (a) A resident shall not be given unnecessary drugs. An  
25 unnecessary drug is any drug used in an excessive dose,

1 including in duplicative therapy; for excessive duration;  
2 without adequate monitoring; without adequate indications for  
3 its use; or in the presence of adverse consequences that  
4 indicate the drugs should be reduced or discontinued. The  
5 Department shall adopt, by rule, the standards for unnecessary  
6 drugs contained in interpretive guidelines issued by the United  
7 States Department of Health and Human Services for the purposes  
8 of administering Titles XVIII and XIX of the Social Security  
9 Act.

10 (b) Psychotropic medication shall not be prescribed  
11 without the informed consent of the resident, the resident's  
12 guardian, or other authorized representative. "Psychotropic  
13 medication" means medication that is used for or listed as used  
14 for antipsychotic, antidepressant, antimanic, or antianxiety  
15 behavior modification or behavior management purposes in the  
16 latest editions of the AMA Drug Evaluations or the Physician's  
17 Desk Reference.

18 (c) The requirements of this Section are intended to  
19 control in a conflict with the requirements of Sections 2-102  
20 and 2-107.2 of the Mental Health and Developmental Disabilities  
21 Code with respect to the administration of psychotropic  
22 medication.

23 Section 2-106a. Resident identification wristlet. No  
24 identification wristlets shall be employed except as ordered by  
25 a physician who documents the need for such mandatory

1 identification in the resident's clinical record. When  
2 identification bracelets are required, they must identify the  
3 resident's name, and the name and address of the facility  
4 issuing the identification wristlet.

5 Section 2-107. Abuse or neglect; duty to report. An owner,  
6 licensee, administrator, employee or agent of a facility shall  
7 not abuse or neglect a resident. It is the duty of any facility  
8 employee or agent who becomes aware of such abuse or neglect to  
9 report it as provided in the Abused and Neglected Long Term  
10 Care Facility Residents Reporting Act.

11 Section 2-108. Communications; visits; married residents.  
12 Every resident shall be permitted unimpeded, private and  
13 uncensored communication of his choice by mail, public  
14 telephone or visitation.

15 (a) The administrator shall ensure that correspondence is  
16 conveniently received and mailed, and that telephones are  
17 reasonably accessible.

18 (b) The administrator shall ensure that residents may have  
19 private visits at any reasonable hour unless such visits are  
20 not medically advisable for the resident as documented in the  
21 resident's clinical record by the resident's physician.

22 (c) The administrator shall ensure that space for visits is  
23 available and that facility personnel knock, except in an  
24 emergency, before entering any resident's room.

1 (d) Unimpeded, private and uncensored communication by  
2 mail, public telephone and visitation may be reasonably  
3 restricted by a physician only in order to protect the resident  
4 or others from harm, harassment or intimidation, provided that  
5 the reason for any such restriction is placed in the resident's  
6 clinical record by the physician and that notice of such  
7 restriction shall be given to all residents upon admission.  
8 However, all letters addressed by a resident to the Governor,  
9 members of the General Assembly, Attorney General, judges,  
10 state's attorneys, officers of the Department, or licensed  
11 attorneys at law shall be forwarded at once to the persons to  
12 whom they are addressed without examination by facility  
13 personnel. Letters in reply from the officials and attorneys  
14 mentioned above shall be delivered to the recipient without  
15 examination by facility personnel.

16 (e) The administrator shall ensure that married residents  
17 residing in the same facility be allowed to reside in the same  
18 room within the facility unless there is no room available in  
19 the facility or it is deemed medically inadvisable by the  
20 residents' attending physician and so documented in the  
21 residents' medical records.

22 Section 2-109. Religion. A resident shall be permitted the  
23 free exercise of religion. Upon a resident's request, and if  
24 necessary at his expense, the administrator shall make  
25 arrangements for a resident's attendance at religious services

1 of the resident's choice. However, no religious beliefs or  
2 practices, or attendance at religious services, may be imposed  
3 upon any resident.

4 Section 2-110. Access to residents.

5 (a) Any employee or agent of a public agency, any  
6 representative of a community legal services program or any  
7 other member of the general public shall be permitted access at  
8 reasonable hours to any individual resident of any facility,  
9 but only if there is neither a commercial purpose nor effect to  
10 such access and if the purpose is to do any of the following:

11 (1) Visit, talk with and make personal, social and  
12 legal services available to all residents;

13 (2) Inform residents of their rights and entitlements  
14 and their corresponding obligations, under federal and  
15 State laws, by means of educational materials and  
16 discussions in groups and with individual residents;

17 (3) Assist residents in asserting their legal rights  
18 regarding claims for public assistance, medical assistance  
19 and social security benefits, as well as in all other  
20 matters in which residents are aggrieved. Assistance may  
21 include counseling and litigation; or

22 (4) Engage in other methods of asserting, advising and  
23 representing residents so as to extend to them full  
24 enjoyment of their rights.

25 (a-5) If a resident of a licensed facility is an identified

1 offender, any federal, State, or local law enforcement officer  
2 or county probation officer shall be permitted reasonable  
3 access to the individual resident to verify compliance with the  
4 requirements of the Sex Offender Registration Act or to verify  
5 compliance with applicable terms of probation, parole, or  
6 mandatory supervised release.

7 (b) All persons entering a facility under this Section  
8 shall promptly notify appropriate facility personnel of their  
9 presence. They shall, upon request, produce identification to  
10 establish their identity. No such person shall enter the  
11 immediate living area of any resident without first identifying  
12 himself and then receiving permission from the resident to  
13 enter. The rights of other residents present in the room shall  
14 be respected. A resident may terminate at any time a visit by a  
15 person having access to the resident's living area under this  
16 Section.

17 (c) This Section shall not limit the power of the  
18 Department or other public agency otherwise permitted or  
19 required by law to enter and inspect a facility.

20 (d) Notwithstanding paragraph (a) of this Section, the  
21 administrator of a facility may refuse access to the facility  
22 to any person if the presence of that person in the facility  
23 would be injurious to the health and safety of a resident or  
24 would threaten the security of the property of a resident or  
25 the facility, or if the person seeks access to the facility for  
26 commercial purposes. Any person refused access to a facility

1 may within 10 days request a hearing under Section 3-703. In  
2 that proceeding, the burden of proof as to the right of the  
3 facility to refuse access under this Section shall be on the  
4 facility.

5 Section 2-111. Discharge. A resident may be discharged from  
6 a facility after he gives the administrator, a physician, or a  
7 nurse of the facility written notice of his desire to be  
8 discharged. If a guardian has been appointed for a resident or  
9 if the resident is a minor, the resident shall be discharged  
10 upon written consent of his guardian or if the resident is a  
11 minor, his parent unless there is a court order to the  
12 contrary. In such cases, upon the resident's discharge, the  
13 facility is relieved from any responsibility for the resident's  
14 care, safety or well being.

15 Section 2-112. Grievances. A resident shall be permitted to  
16 present grievances on behalf of himself or others to the  
17 administrator, the Long-Term Care Facility Advisory Board  
18 established under Section 2-204 of the Nursing Home Care Act,  
19 the residents' advisory council, State governmental agencies  
20 or other persons without threat of discharge or reprisal in any  
21 form or manner whatsoever. The administrator shall provide all  
22 residents or their representatives with the name, address, and  
23 telephone number of the appropriate State governmental office  
24 where complaints may be lodged.



1 or the resident's representative, if any, or the resident's  
2 immediate family member, if any; such authorization shall be  
3 attested to by a witness who has no pecuniary interest in the  
4 facility or its operations, and who is not connected in any way  
5 to facility personnel or the administrator in any manner  
6 whatsoever.

7 (3) Shall maintain and allow, in order of priority, each  
8 resident or the resident's guardian, if any, or the resident's  
9 representative, if any, or the resident's immediate family  
10 member, if any, access to a written record of all financial  
11 arrangements and transactions involving the individual  
12 resident's funds.

13 (4) Shall provide, in order of priority, each resident, or  
14 the resident's guardian, if any, or the resident's  
15 representative, if any, or the resident's immediate family  
16 member, if any, with a written itemized statement at least  
17 quarterly, of all financial transactions involving the  
18 resident's funds.

19 (5) Shall purchase a surety bond, or otherwise provide  
20 assurance satisfactory to the Departments of Public Health and  
21 Financial and Professional Regulation that all residents'  
22 personal funds deposited with the facility are secure against  
23 loss, theft, and insolvency.

24 (6) Shall keep any funds received from a resident for  
25 safekeeping in an account separate from the facility's funds,  
26 and shall at no time withdraw any part or all of such funds for

1 any purpose other than to return the funds to the resident upon  
2 the request of the resident or any other person entitled to  
3 make such request, to pay the resident his allowance, or to  
4 make any other payment authorized by the resident or any other  
5 person entitled to make such authorization.

6 (7) Shall deposit any funds received from a resident in  
7 excess of \$100 in an interest bearing account insured by  
8 agencies of, or corporations chartered by, the State or federal  
9 government. The account shall be in a form which clearly  
10 indicates that the facility has only a fiduciary interest in  
11 the funds and any interest from the account shall accrue to the  
12 resident. The facility may keep up to \$100 of a resident's  
13 money in a non-interest-bearing account or petty cash fund, to  
14 be readily available for the resident's current expenditures.

15 (8) Shall return to the resident, or the person who  
16 executed the written authorization required in subsection (2)  
17 of this Section, upon written request, all or any part of the  
18 resident's funds given the facility for safekeeping, including  
19 the interest accrued from deposits.

20 (9) Shall (a) place any monthly allowance to which a  
21 resident is entitled in that resident's personal account, or  
22 give it to the resident, unless the facility has written  
23 authorization from the resident or the resident's guardian or  
24 if the resident is a minor, his parent, to handle it  
25 differently, (b) take all steps necessary to ensure that a  
26 personal needs allowance that is placed in a resident's

1 personal account is used exclusively by the resident or for the  
2 benefit of the resident, and (c) where such funds are withdrawn  
3 from the resident's personal account by any person other than  
4 the resident, require such person to whom funds constituting  
5 any part of a resident's personal needs allowance are released,  
6 to execute an affidavit that such funds shall be used  
7 exclusively for the benefit of the resident.

8 (10) Unless otherwise provided by State law, upon the death  
9 of a resident, shall provide the executor or administrator of  
10 the resident's estate with a complete accounting of all the  
11 resident's personal property, including any funds of the  
12 resident being held by the facility.

13 (11) If an adult resident is incapable of managing his  
14 funds and does not have a resident's representative, guardian,  
15 or an immediate family member, shall notify the Office of the  
16 State Guardian of the Guardianship and Advocacy Commission.

17 (12) If the facility is sold, shall provide the buyer with  
18 a written verification by a public accountant of all residents'  
19 monies and properties being transferred, and obtain a signed  
20 receipt from the new owner.

21 Section 2-201.5. Screening prior to admission.

22 (a) All persons age 18 or older seeking admission to a  
23 facility must be screened to determine the need for facility  
24 services prior to being admitted, regardless of income, assets,  
25 or funding source. In addition, any person who seeks to become

1 eligible for medical assistance from the Medical Assistance  
2 Program under the Illinois Public Aid Code to pay for services  
3 while residing in a facility must be screened prior to  
4 receiving those benefits. Screening for facility services  
5 shall be administered through procedures established by  
6 administrative rule. Screening may be done by agencies other  
7 than the Department as established by administrative rule.

8 (b) In addition to the screening required by subsection  
9 (a), identified offenders who seek admission to a licensed  
10 facility shall not be admitted unless the licensed facility  
11 complies with the requirements of the Department's  
12 administrative rules adopted pursuant to Section 3-202.3.

13 Section 2-202. Contract required.

14 (a) Before a person is admitted to a facility, or at the  
15 expiration of the period of previous contract, or when the  
16 source of payment for the resident's care changes from private  
17 to public funds or from public to private funds, a written  
18 contract shall be executed between a licensee and the following  
19 in order of priority:

20 (1) the person, or if the person is a minor, his parent  
21 or guardian; or

22 (2) the person's guardian, if any, or agent, if any, as  
23 defined in Section 2-3 of the Illinois Power of Attorney  
24 Act; or

25 (3) a member of the person's immediate family.

1           An adult person shall be presumed to have the capacity to  
2 contract for admission to a long term care facility unless he  
3 has been adjudicated a "disabled person" within the meaning of  
4 Section 11a-2 of the Probate Act of 1975, or unless a petition  
5 for such an adjudication is pending in a circuit court of  
6 Illinois.

7           If there is no guardian, agent or member of the person's  
8 immediate family available, able or willing to execute the  
9 contract required by this Section and a physician determines  
10 that a person is so disabled as to be unable to consent to  
11 placement in a facility, or if a person has already been found  
12 to be a "disabled person", but no order has been entered  
13 allowing residential placement of the person, that person may  
14 be admitted to a facility before the execution of a contract  
15 required by this Section; provided that a petition for  
16 guardianship or for modification of guardianship is filed  
17 within 15 days of the person's admission to a facility, and  
18 provided further that such a contract is executed within 10  
19 days of the disposition of the petition.

20           No adult shall be admitted to a facility if he objects,  
21 orally or in writing, to such admission, except as otherwise  
22 provided in Chapters III and IV of the Mental Health and  
23 Developmental Disabilities Code or Section 11a-14.1 of the  
24 Probate Act of 1975.

25           Before a licensee enters a contract under this Section, it  
26 shall provide the prospective resident and his guardian, if

1 any, with written notice of the licensee's policy regarding  
2 discharge of a resident whose private funds for payment of care  
3 are exhausted.

4 (b) A resident shall not be discharged or transferred at  
5 the expiration of the term of a contract, except as provided in  
6 Sections 3-401 through 3-423.

7 (c) At the time of the resident's admission to the  
8 facility, a copy of the contract shall be given to the  
9 resident, his guardian, if any, and any other person who  
10 executed the contract.

11 (d) A copy of the contract for a resident who is supported  
12 by nonpublic funds other than the resident's own funds shall be  
13 made available to the person providing the funds for the  
14 resident's support.

15 (e) The original or a copy of the contract shall be  
16 maintained in the facility and be made available upon request  
17 to representatives of the Department and the Department of  
18 Healthcare and Family Services.

19 (f) The contract shall be written in clear and unambiguous  
20 language and shall be printed in not less than 12-point type.  
21 The general form of the contract shall be prescribed by the  
22 Department.

23 (g) The contract shall specify:

24 (1) the term of the contract;

25 (2) the services to be provided under the contract and  
26 the charges for the services;

1           (3) the services that may be provided to supplement the  
2 contract and the charges for the services;

3           (4) the sources liable for payments due under the  
4 contract;

5           (5) the amount of deposit paid; and

6           (6) the rights, duties and obligations of the resident,  
7 except that the specification of a resident's rights may be  
8 furnished on a separate document which complies with the  
9 requirements of Section 2-211.

10          (h) The contract shall designate the name of the resident's  
11 representative, if any. The resident shall provide the facility  
12 with a copy of the written agreement between the resident and  
13 the resident's representative which authorizes the resident's  
14 representative to inspect and copy the resident's records and  
15 authorizes the resident's representative to execute the  
16 contract on behalf of the resident required by this Section.

17          (i) The contract shall provide that if the resident is  
18 compelled by a change in physical or mental health to leave the  
19 facility, the contract and all obligations under it shall  
20 terminate on 7 days' notice. No prior notice of termination of  
21 the contract shall be required, however, in the case of a  
22 resident's death. The contract shall also provide that in all  
23 other situations, a resident may terminate the contract and all  
24 obligations under it with 30 days' notice. All charges shall be  
25 prorated as of the date on which the contract terminates, and,  
26 if any payments have been made in advance, the excess shall be

1 refunded to the resident. This provision shall not apply to  
2 life care contracts through which a facility agrees to provide  
3 maintenance and care for a resident throughout the remainder of  
4 his life nor to continuing care contracts through which a  
5 facility agrees to supplement all available forms of financial  
6 support in providing maintenance and care for a resident  
7 throughout the remainder of his life.

8 (j) In addition to all other contract specifications  
9 contained in this Section admission contracts shall also  
10 specify:

11 (1) whether the facility accepts Medicaid clients;

12 (2) whether the facility requires a deposit of the  
13 resident or his family prior to the establishment of  
14 Medicaid eligibility;

15 (3) in the event that a deposit is required, a clear  
16 and concise statement of the procedure to be followed for  
17 the return of such deposit to the resident or the  
18 appropriate family member or guardian of the person;

19 (4) that all deposits made to a facility by a resident,  
20 or on behalf of a resident, shall be returned by the  
21 facility within 30 days of the establishment of Medicaid  
22 eligibility, unless such deposits must be drawn upon or  
23 encumbered in accordance with Medicaid eligibility  
24 requirements established by the Department of Healthcare  
25 and Family Services.

26 (k) It shall be a business offense for a facility to

1 knowingly and intentionally both retain a resident's deposit  
2 and accept Medicaid payments on behalf of that resident.

3 Section 2-203. Residents' advisory council. Each facility  
4 shall establish a residents' advisory council. The  
5 administrator shall designate a member of the facility staff to  
6 coordinate the establishment of, and render assistance to, the  
7 council.

8 (a) The composition of the residents' advisory council  
9 shall be specified by Department regulation, but no employee or  
10 affiliate of a facility shall be a member of any council.

11 (b) The council shall meet at least once each month with  
12 the staff coordinator who shall provide assistance to the  
13 council in preparing and disseminating a report of each meeting  
14 to all residents, the administrator, and the staff.

15 (c) Records of the council meetings will be maintained in  
16 the office of the administrator.

17 (d) The residents' advisory council may communicate to the  
18 administrator the opinions and concerns of the residents. The  
19 council shall review procedures for implementing resident  
20 rights, facility responsibilities and make recommendations for  
21 changes or additions which will strengthen the facility's  
22 policies and procedures as they affect residents' rights and  
23 facility responsibilities.

24 (e) The council shall be a forum for:

25 (1) Obtaining and disseminating information;

1           (2) Soliciting and adopting recommendations for  
2           facility programing and improvements;

3           (3) Early identification and for recommending orderly  
4           resolution of problems.

5           (f) The council may present complaints as provided in  
6           Section 3-702 on behalf of a resident to the Department, the  
7           Long-Term Care Facility Advisory Board established under  
8           Section 2-204 of the Nursing Home Care Act or to any other  
9           person it considers appropriate.

10           Section 2-204. Long-Term Care Facility Advisory Board. The  
11           Long-Term Care Facility Advisory Board established under  
12           Section 2-204 of the Nursing Home Care Act shall advise the  
13           Department of Public Health on all aspects of its  
14           responsibilities under this Act, including the format and  
15           content of any rules promulgated by the Department of Public  
16           Health. Any such rules, except emergency rules promulgated  
17           pursuant to Section 5-45 of the Illinois Administrative  
18           Procedure Act, promulgated without obtaining the advice of the  
19           Advisory Board are null and void. In the event that the  
20           Department fails to follow the advice of the Board, the  
21           Department shall, prior to the promulgation of such rules,  
22           transmit a written explanation of the reason thereof to the  
23           Board. During its review of rules, the Board shall analyze the  
24           economic and regulatory impact of those rules. If the Advisory  
25           Board, having been asked for its advice, fails to advise the

1 Department within 90 days, the rules shall be considered acted  
2 upon.

3 Section 2-205. Disclosure of information to public. The  
4 following information is subject to disclosure to the public  
5 from the Department or the Department of Healthcare and Family  
6 Services:

7 (1) Information submitted under Sections 3-103 and  
8 3-207 except information concerning the remuneration of  
9 personnel licensed, registered, or certified by the  
10 Department of Financial and Professional Regulation (as  
11 successor to the Department of Professional Regulation)  
12 and monthly charges for an individual private resident;

13 (2) Records of license and certification inspections,  
14 surveys, and evaluations of facilities, other reports of  
15 inspections, surveys, and evaluations of resident care,  
16 and reports concerning a facility prepared pursuant to  
17 Titles XVIII and XIX of the Social Security Act, subject to  
18 the provisions of the Social Security Act;

19 (3) Cost and reimbursement reports submitted by a  
20 facility under Section 3-208, reports of audits of  
21 facilities, and other public records concerning costs  
22 incurred by, revenues received by, and reimbursement of  
23 facilities; and

24 (4) Complaints filed against a facility and complaint  
25 investigation reports, except that a complaint or

1 complaint investigation report shall not be disclosed to a  
2 person other than the complainant or complainant's  
3 representative before it is disclosed to a facility under  
4 Section 3-702, and, further, except that a complainant or  
5 resident's name shall not be disclosed except under Section  
6 3-702. The Department shall disclose information under  
7 this Section in accordance with provisions for inspection  
8 and copying of public records required by the Freedom of  
9 Information Act. However, the disclosure of information  
10 described in subsection (1) shall not be restricted by any  
11 provision of the Freedom of Information Act.

12 Section 2-206. Confidentiality of records.

13 (a) The Department shall respect the confidentiality of a  
14 resident's record and shall not divulge or disclose the  
15 contents of a record in a manner which identifies a resident,  
16 except upon a resident's death to a relative or guardian, or  
17 under judicial proceedings. This Section shall not be construed  
18 to limit the right of a resident to inspect or copy the  
19 resident's records.

20 (b) Confidential medical, social, personal, or financial  
21 information identifying a resident shall not be available for  
22 public inspection in a manner which identifies a resident.

23 Section 2-207. Directories for public health regions;  
24 information concerning facility costs and policies.

1           (a) Each year the Department shall publish a Directory for  
2 each public health region listing facilities to be made  
3 available to the public and be available at all Department  
4 offices. The Department may charge a fee for the Directory. The  
5 Directory shall contain, at a minimum, the following  
6 information:

7           (1) The name and address of the facility;

8           (2) The number and type of licensed beds;

9           (3) The name of the cooperating hospital, if any;

10          (4) The name of the administrator;

11          (5) The facility telephone number; and

12          (6) Membership in a provider association and  
13 accreditation by any such organization.

14           (b) Detailed information concerning basic costs for care  
15 and operating policies shall be available to the public upon  
16 request at each facility. However, a facility may refuse to  
17 make available any proprietary operating policies to the extent  
18 such facility reasonably believes such policies may be revealed  
19 to a competitor.

20           Section 2-208. Notice of imminent death. A facility shall  
21 immediately notify the resident's next of kin, representative  
22 and physician of the resident's death or when the resident's  
23 death appears to be imminent.

24           Section 2-209. Number of residents. A facility shall admit

1 only that number of residents for which it is licensed.

2 Section 2-210. Policies and procedures. A facility shall  
3 establish written policies and procedures to implement the  
4 responsibilities and rights provided in this Article. The  
5 policies shall include the procedure for the investigation and  
6 resolution of resident complaints as set forth under Section  
7 3-702. The policies and procedures shall be clear and  
8 unambiguous and shall be available for inspection by any  
9 person. A summary of the policies and procedures, printed in  
10 not less than 12-point type, shall be distributed to each  
11 resident and representative.

12 Section 2-211. Explanation of rights. Each resident and  
13 resident's guardian or other person acting for the resident  
14 shall be given a written explanation, prepared by the Office of  
15 the State Long Term Care Ombudsman, of all the rights  
16 enumerated in Part 1 of this Article and in Part 4 of Article  
17 III. For residents of facilities participating in Title XVIII  
18 or XIX of the Social Security Act, the explanation shall  
19 include an explanation of residents' rights enumerated in that  
20 Act. The explanation shall be given at the time of admission to  
21 a facility or as soon thereafter as the condition of the  
22 resident permits, but in no event later than 48 hours after  
23 admission, and again at least annually thereafter. At the time  
24 of the implementation of this Act each resident shall be given

1 a written summary of all the rights enumerated in Part 1 of  
2 this Article.

3 If a resident is unable to read such written explanation,  
4 it shall be read to the resident in a language the resident  
5 understands. In the case of a minor or a person having a  
6 guardian or other person acting for him, both the resident and  
7 the parent, guardian or other person acting for the resident  
8 shall be fully informed of these rights.

9 Section 2-212. Staff familiarity with rights and  
10 responsibilities. The facility shall ensure that its staff is  
11 familiar with and observes the rights and responsibilities  
12 enumerated in this Article.

13 Section 2-213. Vaccinations.

14 (a) A facility shall annually administer or arrange for  
15 administration of a vaccination against influenza to each  
16 resident, in accordance with the recommendations of the  
17 Advisory Committee on Immunization Practices of the Centers for  
18 Disease Control and Prevention that are most recent to the time  
19 of vaccination, unless the vaccination is medically  
20 contraindicated or the resident has refused the vaccine.  
21 Influenza vaccinations for all residents age 65 and over shall  
22 be completed by November 30 of each year or as soon as  
23 practicable if vaccine supplies are not available before  
24 November 1. Residents admitted after November 30, during the

1 flu season, and until February 1 shall, as medically  
2 appropriate, receive an influenza vaccination prior to or upon  
3 admission or as soon as practicable if vaccine supplies are not  
4 available at the time of the admission, unless the vaccine is  
5 medically contraindicated or the resident has refused the  
6 vaccine. In the event that the Advisory Committee on  
7 Immunization Practices of the Centers for Disease Control and  
8 Prevention determines that dates of administration other than  
9 those stated in this Act are optimal to protect the health of  
10 residents, the Department is authorized to develop rules to  
11 mandate vaccinations at those times rather than the times  
12 stated in this Act. A facility shall document in the resident's  
13 medical record that an annual vaccination against influenza was  
14 administered, arranged, refused or medically contraindicated.

15 (b) A facility shall administer or arrange for  
16 administration of a pneumococcal vaccination to each resident  
17 who is age 65 and over, in accordance with the recommendations  
18 of the Advisory Committee on Immunization Practices of the  
19 Centers for Disease Control and Prevention, who has not  
20 received this immunization prior to or upon admission to the  
21 facility, unless the resident refuses the offer for vaccination  
22 or the vaccination is medically contraindicated. A facility  
23 shall document in each resident's medical record that a  
24 vaccination against pneumococcal pneumonia was offered and  
25 administered, arranged, refused, or medically contraindicated.

1 Section 2-214. Consumer Choice Information Reports.

2 (a) Every facility shall complete a Consumer Choice  
3 Information Report and shall file it with the Office of State  
4 Long Term Care Ombudsman electronically as prescribed by the  
5 Office. The Report shall be filed annually and upon request of  
6 the Office of State Long Term Care Ombudsman. The Consumer  
7 Choice Information Report must be completed by the facility in  
8 full.

9 (b) A violation of any of the provisions of this Section  
10 constitutes an unlawful practice under the Consumer Fraud and  
11 Deceptive Business Practices Act. All remedies, penalties, and  
12 authority granted to the Attorney General by the Consumer Fraud  
13 and Deceptive Business Practices Act shall be available to him  
14 or her for the enforcement of this Section.

15 (c) The Department of Public Health shall include  
16 verification of the submission of a facility's current Consumer  
17 Choice Information Report when conducting an inspection  
18 pursuant to Section 3-212.

19 Section 2-216. Notification of identified offenders. If  
20 identified offenders are residents of the licensed facility,  
21 the licensed facility shall notify every resident or resident's  
22 guardian in writing that such offenders are residents of the  
23 licensed facility. The licensed facility shall also provide  
24 notice to its employees and to visitors to the facility that  
25 identified offenders are residents.

1 ARTICLE III. LICENSING, ENFORCEMENT, VIOLATIONS, PENALTIES AND  
2 REMEDIES

3 PART 1. LICENSING

4 Section 3-101. Licensure system. The Department shall  
5 establish a comprehensive system of licensure for facilities in  
6 accordance with this Act for the purposes of:

7 (1) Protecting the health, welfare, and safety of  
8 residents; and

9 (2) Assuring the accountability for reimbursed care  
10 provided in certified facilities participating in a  
11 federal or State health program.

12 Section 3-102. Necessity of license. No person may  
13 establish, operate, maintain, offer or advertise a facility  
14 within this State unless and until he obtains a valid license  
15 therefore as hereinafter provided, which license remains  
16 unsuspended, unrevoked and unexpired. No public official or  
17 employee may place any person in, or recommend that any person  
18 be placed in, or directly or indirectly cause any person to be  
19 placed in any facility which is being operated without a valid  
20 license.

21 Section 3-102.1. Denial of Department access to facility.

1 If the Department is denied access to a facility or any other  
2 place which it reasonably believes is required to be licensed  
3 as a facility under this Act, it shall request intervention of  
4 local, county or State law enforcement agencies to seek an  
5 appropriate court order or warrant to examine or interview the  
6 residents of such facility. Any person or entity preventing the  
7 Department from carrying out its duties under this Section  
8 shall be guilty of a violation of this Act and shall be subject  
9 to such penalties related thereto.

10 Section 3-103. Application for license; financial  
11 statement. The procedure for obtaining a valid license shall be  
12 as follows:

13 (1) Application to operate a facility shall be made to  
14 the Department on forms furnished by the Department.

15 (2) All license applications shall be accompanied with  
16 an application fee. The fee for an annual license shall be  
17 \$995. Facilities that pay a fee or assessment pursuant to  
18 Article V-C of the Illinois Public Aid Code shall be exempt  
19 from the license fee imposed under this item (2). The fee  
20 for a 2-year license shall be double the fee for the annual  
21 license set forth in the preceding sentence. The fees  
22 collected shall be deposited with the State Treasurer into  
23 the Long Term Care Monitor/Receiver Fund, which has been  
24 created as a special fund in the State treasury. This  
25 special fund is to be used by the Department for expenses

1 related to the appointment of monitors and receivers as  
2 contained in Sections 3-501 through 3-517. At the end of  
3 each fiscal year, any funds in excess of \$1,000,000 held in  
4 the Long Term Care Monitor/Receiver Fund shall be deposited  
5 in the State's General Revenue Fund. The application shall  
6 be under oath and the submission of false or misleading  
7 information shall be a Class A misdemeanor. The application  
8 shall contain the following information:

9 (a) The name and address of the applicant if an  
10 individual, and if a firm, partnership, or  
11 association, of every member thereof, and in the case  
12 of a corporation, the name and address thereof and of  
13 its officers and its registered agent, and in the case  
14 of a unit of local government, the name and address of  
15 its chief executive officer;

16 (b) The name and location of the facility for which  
17 a license is sought;

18 (c) The name of the person or persons under whose  
19 management or supervision the facility will be  
20 conducted;

21 (d) The number and type of residents for which  
22 maintenance, personal care, or nursing is to be  
23 provided; and

24 (e) Such information relating to the number,  
25 experience, and training of the employees of the  
26 facility, any management agreements for the operation

1 of the facility, and of the moral character of the  
2 applicant and employees as the Department may deem  
3 necessary.

4 (3) Each initial application shall be accompanied by a  
5 financial statement setting forth the financial condition  
6 of the applicant and by a statement from the unit of local  
7 government having zoning jurisdiction over the facility's  
8 location stating that the location of the facility is not  
9 in violation of a zoning ordinance. An initial application  
10 for a new facility shall be accompanied by a permit as  
11 required by the Illinois Health Facilities Planning Act.  
12 After the application is approved, the applicant shall  
13 advise the Department every 6 months of any changes in the  
14 information originally provided in the application.

15 (4) Other information necessary to determine the  
16 identity and qualifications of an applicant to operate a  
17 facility in accordance with this Act shall be included in  
18 the application as required by the Department in  
19 regulations.

20 Section 3-104. Licensing and regulation by municipality.  
21 Any city, village or incorporated town may by ordinance provide  
22 for the licensing and regulation of a facility or any  
23 classification of such facility, as defined herein, within such  
24 municipality, provided that the ordinance requires compliance  
25 with at least the minimum requirements established by the

1 Department under this Act. The licensing and enforcement  
2 provisions of the municipality shall fully comply with this  
3 Act, and the municipality shall make available information as  
4 required by this Act. Such compliance shall be determined by  
5 the Department subject to review as provided in Section 3-703.  
6 Section 3-703 shall also be applicable to the judicial review  
7 of final administrative decisions of the municipality under  
8 this Act.

9 Section 3-105. Reports by municipality. Any city, village  
10 or incorporated town which has or may have ordinances requiring  
11 the licensing and regulation of facilities with at least the  
12 minimum standards established by the Department under this Act,  
13 shall make such periodic reports to the Department as the  
14 Department deems necessary. This report shall include a list of  
15 those facilities licensed by such municipality, the number of  
16 beds of each facility and the date the license of each facility  
17 is effective.

18 Section 3-106. Issuance of license to holder of municipal  
19 license.

20 (a) Upon receipt of notice and proof from an applicant or  
21 licensee that he has received a license or renewal thereof from  
22 a city, village or incorporated town, accompanied by the  
23 required license or renewal fees, the Department shall issue a  
24 license or renewal license to such person. The Department shall

1 not issue a license hereunder to any person who has failed to  
2 qualify for a municipal license. If the issuance of a license  
3 by the Department antedates regulatory action by a  
4 municipality, the municipality shall issue a local license  
5 unless the standards and requirements under its ordinance or  
6 resolution are greater than those prescribed under this Act.

7 (b) In the event that the standards and requirements under  
8 the ordinance or resolution of the municipality are greater  
9 than those prescribed under this Act, the license issued by the  
10 Department shall remain in effect pending reasonable  
11 opportunity provided by the municipality, which shall be not  
12 less than 60 days, for the licensee to comply with the local  
13 requirements. Upon notice by the municipality, or upon the  
14 Department's own determination that the licensee has failed to  
15 qualify for a local license, the Department shall revoke such  
16 license.

17 Section 3-107. Inspection; fees. The Department and the  
18 city, village or incorporated town shall have the right at any  
19 time to visit and inspect the premises and personnel of any  
20 facility for the purpose of determining whether the applicant  
21 or licensee is in compliance with this Act or with the local  
22 ordinances which govern the regulation of the facility. The  
23 Department may survey any former facility which once held a  
24 license to ensure that the facility is not again operating  
25 without a license. Municipalities may charge a reasonable

1 license or renewal fee for the regulation of facilities, which  
2 fees shall be in addition to the fees paid to the Department.

3 Section 3-107.1. Access by law enforcement officials and  
4 agencies. Notwithstanding any other provision of this Act, the  
5 Attorney General, the State's Attorneys and various law  
6 enforcement agencies of this State and its political  
7 subdivisions shall have full and open access to any facility  
8 pursuant to Article 108 of the Code of Criminal Procedure of  
9 1963 in the exercise of their investigatory and prosecutorial  
10 powers in the enforcement of the criminal laws of this State.  
11 Furthermore, the Attorney General, the State's Attorneys and  
12 law enforcement agencies of this State shall inform the  
13 Department of any violations of this Act of which they have  
14 knowledge. Disclosure of matters before a grand jury shall be  
15 made in accordance with Section 112-6 of the Code of Criminal  
16 Procedure of 1963.

17 Section 3-108. Cooperation with State agencies. The  
18 Department shall coordinate the functions within State  
19 government affecting facilities licensed under this Act and  
20 shall cooperate with other State agencies which establish  
21 standards or requirements for facilities to assure necessary,  
22 equitable, and consistent State supervision of licensees  
23 without unnecessary duplication of survey, evaluation, and  
24 consultation services or complaint investigations. The

1 Department shall cooperate with the Department of Human  
2 Services in regard to facilities containing more than 20% of  
3 residents for whom the Department of Human Services has  
4 mandated follow up responsibilities under the Mental Health and  
5 Developmental Disabilities Administrative Act. The Department  
6 shall cooperate with the Department of Healthcare and Family  
7 Services in regard to facilities where recipients of public aid  
8 are residents. The Department shall immediately refer to the  
9 Department of Financial and Professional Regulation (as  
10 successor to the Department of Professional Regulation) for  
11 investigation any credible evidence of which it has knowledge  
12 that an individual licensed by that Department has violated  
13 this Act or any rule issued under this Act. The Department  
14 shall enter into agreements with other State Departments,  
15 agencies or commissions to effectuate the purpose of this  
16 Section.

17 Section 3-109. Issuance of license based on Director's  
18 findings. Upon receipt and review of an application for a  
19 license made under this Article and inspection of the applicant  
20 facility under this Article, the Director shall issue a license  
21 if he finds:

- 22 (1) That the individual applicant, or the corporation,  
23 partnership or other entity if the applicant is not an  
24 individual, is a person responsible and suitable to operate  
25 or to direct or participate in the operation of a facility

1 by virtue of financial capacity, appropriate business or  
2 professional experience, a record of compliance with  
3 lawful orders of the Department and lack of revocation of a  
4 license during the previous 5 years;

5 (2) That the facility is under the supervision of an  
6 administrator who is licensed, if required, under the  
7 Nursing Home Administrators Licensing and Disciplinary  
8 Act, as now or hereafter amended; and

9 (3) That the facility is in substantial compliance with  
10 this Act, and such other requirements for a license as the  
11 Department by rule may establish under this Act.

12 Section 3-110. Contents and period of license.

13 (a) Any license granted by the Director shall state the  
14 maximum bed capacity for which it is granted, the date the  
15 license was issued, and the expiration date. Except as provided  
16 in subsection (b), such licenses shall normally be issued for a  
17 period of one year. However, the Director may issue licenses or  
18 renewals for periods of not less than 6 months nor more than 18  
19 months for facilities with annual licenses and not less than 18  
20 months nor more than 30 months for facilities with 2-year  
21 licenses in order to distribute the expiration dates of such  
22 licenses throughout the calendar year, and fees for such  
23 licenses shall be prorated on the basis of the portion of a  
24 year for which they are issued. Each license shall be issued  
25 only for the premises and persons named in the application and

1 shall not be transferable or assignable.

2 The Department shall require the licensee to comply with  
3 the requirements of a court order issued under Section 3-515,  
4 as a condition of licensing.

5 (b) A license for a period of 2 years shall be issued to a  
6 facility if the facility:

7 (1) has not received a Type "A" violation within the  
8 last 24 months;

9 (2) has not received a Type "B" violation within the  
10 last 24 months;

11 (3) has not had an inspection, survey, or evaluation  
12 that resulted in the issuance of 10 or more administrative  
13 warnings in the last 24 months;

14 (4) has not had an inspection, survey, or evaluation  
15 that resulted in an administrative warning issued for a  
16 violation of Sections 3-401 through 3-413 in the last 24  
17 months;

18 (5) has not been issued an order to reimburse a  
19 resident for a violation of Article II under subsection (6)  
20 of Section 3-305 in the last 24 months; and

21 (6) has not been subject to sanctions or  
22 decertification for violations in relation to patient care  
23 of a facility under Titles XVIII and XIX of the federal  
24 Social Security Act within the last 24 months.

25 If a facility with a 2-year license fails to meet the  
26 conditions in items (1) through (6) of this subsection, in

1 addition to any other sanctions that may be applied by the  
2 Department under this Act, the facility's 2-year license shall  
3 be replaced by a one year license until such time as the  
4 facility again meets the conditions in items (1) through (6) of  
5 this subsection.

6 Section 3-111. Issuance or renewal of license after notice  
7 of violation. The issuance or renewal of a license after notice  
8 of a violation has been sent shall not constitute a waiver by  
9 the Department of its power to rely on the violation as the  
10 basis for subsequent license revocation or other enforcement  
11 action under this Act arising out of the notice of violation.

12 Section 3-112. Transfer of ownership; license.

13 (a) Whenever ownership of a facility is transferred from  
14 the person named in the license to any other person, the  
15 transferee must obtain a new probationary license. The  
16 transferee shall notify the Department of the transfer and  
17 apply for a new license at least 30 days prior to final  
18 transfer.

19 (b) The transferor shall notify the Department at least 30  
20 days prior to final transfer. The transferor shall remain  
21 responsible for the operation of the facility until such time  
22 as a license is issued to the transferee.

23 Section 3-113. Transferee; conditional license. The

1 license granted to the transferee shall be subject to the plan  
2 of correction submitted by the previous owner and approved by  
3 the Department and any conditions contained in a conditional  
4 license issued to the previous owner. If there are outstanding  
5 violations and no approved plan of correction has been  
6 implemented, the Department may issue a conditional license and  
7 plan of correction as provided in Sections 3-311 through 3-317.

8 Section 3-114. Transferor liable for penalties. The  
9 transferor shall remain liable for all penalties assessed  
10 against the facility which are imposed for violations occurring  
11 prior to transfer of ownership.

12 Section 3-115. License renewal application. At least 120  
13 days but not more than 150 days prior to license expiration,  
14 the licensee shall submit an application for renewal of the  
15 license in such form and containing such information as the  
16 Department requires. If the application is approved, the  
17 license shall be renewed in accordance with Section 3-110. The  
18 renewal application for a facility shall not be approved unless  
19 the applicant has provided to the Department an accurate  
20 disclosure document in accordance with the Alzheimer's Special  
21 Care Disclosure Act. If application for renewal is not timely  
22 filed, the Department shall so inform the licensee.

23 Section 3-116. Probationary license. If the applicant has

1 not been previously licensed or if the facility is not in  
2 operation at the time application is made, the Department shall  
3 issue only a probationary license. A probationary license shall  
4 be valid for 120 days unless sooner suspended or revoked under  
5 Section 3-119. Within 30 days prior to the termination of a  
6 probationary license, the Department shall fully and  
7 completely inspect the facility and, if the facility meets the  
8 applicable requirements for licensure, shall issue a license  
9 under Section 3-109. If the Department finds that the facility  
10 does not meet the requirements for licensure but has made  
11 substantial progress toward meeting those requirements, the  
12 license may be renewed once for a period not to exceed 120 days  
13 from the expiration date of the initial probationary license.

14 Section 3-117. Denial of license; grounds. An application  
15 for a license may be denied for any of the following reasons:

16 (1) Failure to meet any of the minimum standards set  
17 forth by this Act or by rules and regulations promulgated  
18 by the Department under this Act.

19 (2) Conviction of the applicant, or if the applicant is  
20 a firm, partnership or association, of any of its members,  
21 or if a corporation, the conviction of the corporation or  
22 any of its officers or stockholders, or of the person  
23 designated to manage or supervise the facility, of a  
24 felony, or of 2 or more misdemeanors involving moral  
25 turpitude, during the previous 5 years as shown by a

1 certified copy of the record of the court of conviction.

2 (3) Personnel insufficient in number or unqualified by  
3 training or experience to properly care for the proposed  
4 number and type of residents.

5 (4) Insufficient financial or other resources to  
6 operate and conduct the facility in accordance with  
7 standards promulgated by the Department under this Act.

8 (5) Revocation of a facility license during the  
9 previous 5 years, if such prior license was issued to the  
10 individual applicant, a controlling owner or controlling  
11 combination of owners of the applicant; or any affiliate of  
12 the individual applicant or controlling owner of the  
13 applicant and such individual applicant, controlling owner  
14 of the applicant or affiliate of the applicant was a  
15 controlling owner of the prior license; provided, however,  
16 that the denial of an application for a license pursuant to  
17 this subsection must be supported by evidence that such  
18 prior revocation renders the applicant unqualified or  
19 incapable of meeting or maintaining a facility in  
20 accordance with the standards and rules promulgated by the  
21 Department under this Act.

22 (6) That the facility is not under the direct  
23 supervision of a full time administrator, as defined by  
24 regulation, who is licensed, if required, under the Nursing  
25 Home Administrators Licensing and Disciplinary Act.

1           Section 3-118. Notice of denial; request for hearing.  
2           Immediately upon the denial of any application or reapplication  
3           for a license under this Article, the Department shall notify  
4           the applicant in writing. Notice of denial shall include a  
5           clear and concise statement of the violations of Section 3-117  
6           on which denial is based and notice of the opportunity for a  
7           hearing under Section 3-703. If the applicant desires to  
8           contest the denial of a license, it shall provide written  
9           notice to the Department of a request for a hearing within 10  
10          days after receipt of the notice of denial. The Department  
11          shall commence the hearing under Section 3-703.

12          Section 3-119. Suspension, revocation, or refusal to renew  
13          license.

14          (a) The Department, after notice to the applicant or  
15          licensee, may suspend, revoke or refuse to renew a license in  
16          any case in which the Department finds any of the following:

17                 (1) There has been a substantial failure to comply with  
18                 this Act or the rules and regulations promulgated by the  
19                 Department under this Act.

20                 (2) Conviction of the licensee, or of the person  
21                 designated to manage or supervise the facility, of a  
22                 felony, or of 2 or more misdemeanors involving moral  
23                 turpitude, during the previous 5 years as shown by a  
24                 certified copy of the record of the court of conviction.

25                 (3) Personnel is insufficient in number or unqualified

1 by training or experience to properly care for the number  
2 and type of residents served by the facility.

3 (4) Financial or other resources are insufficient to  
4 conduct and operate the facility in accordance with  
5 standards promulgated by the Department under this Act.

6 (5) The facility is not under the direct supervision of  
7 a full time administrator, as defined by regulation, who is  
8 licensed, if required, under the Nursing Home  
9 Administrators Licensing and Disciplinary Act.

10 (b) Notice under this Section shall include a clear and  
11 concise statement of the violations on which the nonrenewal or  
12 revocation is based, the statute or rule violated and notice of  
13 the opportunity for a hearing under Section 3-703.

14 (c) If a facility desires to contest the nonrenewal or  
15 revocation of a license, the facility shall, within 10 days  
16 after receipt of notice under subsection (b) of this Section,  
17 notify the Department in writing of its request for a hearing  
18 under Section 3-703. Upon receipt of the request the Department  
19 shall send notice to the facility and hold a hearing as  
20 provided under Section 3-703.

21 (d) The effective date of nonrenewal or revocation of a  
22 license by the Department shall be any of the following:

23 (1) Until otherwise ordered by the circuit court,  
24 revocation is effective on the date set by the Department  
25 in the notice of revocation, or upon final action after  
26 hearing under Section 3-703, whichever is later.



1 Section 3-202. Standards for facilities. The Department  
2 shall prescribe minimum standards for facilities. These  
3 standards shall regulate:

4 (1) Location and construction of the facility,  
5 including plumbing, heating, lighting, ventilation, and  
6 other physical conditions which shall ensure the health,  
7 safety, and comfort of residents and their protection from  
8 fire hazard;

9 (2) Number and qualifications of all personnel,  
10 including management and nursing personnel, having  
11 responsibility for any part of the care given to residents;  
12 specifically, the Department shall establish staffing  
13 ratios for facilities which shall specify the number of  
14 staff hours per resident of care that are needed for  
15 professional nursing care for various types of facilities  
16 or areas within facilities;

17 (3) All sanitary conditions within the facility and its  
18 surroundings, including water supply, sewage disposal,  
19 food handling, and general hygiene, which shall ensure the  
20 health and comfort of residents;

21 (4) Diet related to the needs of each resident based on  
22 good nutritional practice and on recommendations which may  
23 be made by the physicians attending the resident;

24 (5) Equipment essential to the health and welfare of  
25 the residents;

26 (6) A program of habilitation and rehabilitation for

1 those residents who would benefit from such programs;

2 (7) A program for adequate maintenance of physical  
3 plant and equipment;

4 (8) Adequate accommodations, staff and services for  
5 the number and types of residents for whom the facility is  
6 licensed to care, including standards for temperature and  
7 relative humidity within comfort zones determined by the  
8 Department based upon a combination of air temperature,  
9 relative humidity and air movement. Such standards shall  
10 also require facility plans that provide for health and  
11 comfort of residents at medical risk as determined by the  
12 attending physician whenever the temperature and relative  
13 humidity are outside such comfort zones established by the  
14 Department. The standards must include a requirement that  
15 areas of a facility used by residents of the facility be  
16 air-conditioned and heated by means of operable  
17 air-conditioning and heating equipment. The areas subject  
18 to this air-conditioning and heating requirement include,  
19 without limitation, bedrooms or common areas such as  
20 sitting rooms, activity rooms, living rooms, community  
21 rooms, and dining rooms.

22 (9) Development of evacuation and other appropriate  
23 safety plans for use during weather, health, fire, physical  
24 plant, environmental and national defense emergencies; and

25 (10) Maintenance of minimum financial or other  
26 resources necessary to meet the standards established

1           under this Section, and to operate and conduct the facility  
2           in accordance with this Act.

3           Section 3-202.1. Weather or hazard alert system. The  
4           Department shall develop and implement a system of alerting and  
5           educating facilities and their personnel as to the existence or  
6           possibility of weather or other hazardous circumstances which  
7           may endanger resident health or safety and designating any  
8           precautions to prevent or minimize such danger. The Department  
9           may assist any facility experiencing difficulty in dealing with  
10          such emergencies. The Department may provide for announcement  
11          to the public of the dangers posed to facility residents by  
12          such existing or potential weather or hazardous circumstances.

13          Section 3-202.3. Identified offenders as residents. No  
14          later than 30 days after July 11, 2005 (the effective date of  
15          Public Act 94-163), the Department shall file with the Illinois  
16          Secretary of State's Office, pursuant to the Illinois  
17          Administrative Procedure Act, emergency rules regarding the  
18          provision of services to identified offenders. The emergency  
19          rules shall provide for, or include, but not be limited to the  
20          following:

21                 (1) A process for the identification of identified  
22                 offenders.

23                 (2) A required risk assessment of identified  
24                 offenders.

1           (3) A requirement that a licensed facility be required,  
2           within 10 days of the filing of the emergency rules, to  
3           compare its residents against the Illinois Department of  
4           Corrections and Illinois State Police registered sex  
5           offender databases.

6           (4) A requirement that the licensed facility notify the  
7           Department within 48 hours of determining that a resident  
8           or residents of the licensed facility are listed on the  
9           Illinois Department of Corrections or Illinois State  
10          Police registered sex offender databases.

11          (5) The care planning of identified offenders, which  
12          shall include, but not be limited to, a description of the  
13          security measures necessary to protect facility residents  
14          from the identified offender, including whether the  
15          identified offender should be segregated from other  
16          facility residents.

17          (6) For offenders serving terms of probation for felony  
18          offenses, parole, or mandatory supervised release, the  
19          facility shall acknowledge the terms of release as imposed  
20          by the court or Illinois Prisoner Review Board.

21          (7) The discharge planning for identified offenders.

22          Section 3-202.4. Feasibility of segregating identified  
23          offenders. The Department shall determine the feasibility of  
24          requiring identified offenders that seek admission to a  
25          licensed facility to be segregated from other residents.

1 Section 3-202.5. Facility plan review; fees.

2 (a) Before commencing construction of a new facility or  
3 specified types of alteration or additions to an existing long  
4 term care facility involving major construction, as defined by  
5 rule by the Department, with an estimated cost greater than  
6 \$100,000, architectural drawings and specifications for the  
7 facility shall be submitted to the Department for review and  
8 approval. A facility may submit architectural drawings and  
9 specifications for other construction projects for Department  
10 review according to subsection (b) that shall not be subject to  
11 fees under subsection (d). Review of drawings and  
12 specifications shall be conducted by an employee of the  
13 Department meeting the qualifications established by the  
14 Department of Central Management Services class specifications  
15 for such an individual's position or by a person contracting  
16 with the Department who meets those class specifications. Final  
17 approval of the drawings and specifications for compliance with  
18 design and construction standards shall be obtained from the  
19 Department before the alteration, addition, or new  
20 construction is begun.

21 (b) The Department shall inform an applicant in writing  
22 within 10 working days after receiving drawings and  
23 specifications and the required fee, if any, from the applicant  
24 whether the applicant's submission is complete or incomplete.  
25 Failure to provide the applicant with this notice within 10

1 working days shall result in the submission being deemed  
2 complete for purposes of initiating the 60 day review period  
3 under this Section. If the submission is incomplete, the  
4 Department shall inform the applicant of the deficiencies with  
5 the submission in writing. If the submission is complete the  
6 required fee, if any, has been paid, the Department shall  
7 approve or disapprove drawings and specifications submitted to  
8 the Department no later than 60 days following receipt by the  
9 Department. The drawings and specifications shall be of  
10 sufficient detail, as provided by Department rule, to enable  
11 the Department to render a determination of compliance with  
12 design and construction standards under this Act. If the  
13 Department finds that the drawings are not of sufficient detail  
14 for it to render a determination of compliance, the plans shall  
15 be determined to be incomplete and shall not be considered for  
16 purposes of initiating the 60 day review period. If a  
17 submission of drawings and specifications is incomplete, the  
18 applicant may submit additional information. The 60 day review  
19 period shall not commence until the Department determines that  
20 a submission of drawings and specifications is complete or the  
21 submission is deemed complete. If the Department has not  
22 approved or disapproved the drawings and specifications within  
23 60 days, the construction, major alteration, or addition shall  
24 be deemed approved. If the drawings and specifications are  
25 disapproved, the Department shall state in writing, with  
26 specificity, the reasons for the disapproval. The entity

1 submitting the drawings and specifications may submit  
2 additional information in response to the written comments from  
3 the Department or request a reconsideration of the disapproval.  
4 A final decision of approval or disapproval shall be made  
5 within 45 days of the receipt of the additional information or  
6 reconsideration request. If denied, the Department shall state  
7 the specific reasons for the denial.

8 (c) The Department shall provide written approval for  
9 occupancy pursuant to subsection (g) and shall not issue a  
10 violation to a facility as a result of a licensure or complaint  
11 survey based upon the facility's physical structure if:

12 (1) the Department reviewed and approved or deemed  
13 approved the drawings and specifications for compliance  
14 with design and construction standards;

15 (2) the construction, major alteration, or addition  
16 was built as submitted;

17 (3) the law or rules have not been amended since the  
18 original approval; and

19 (4) the conditions at the facility indicate that there  
20 is a reasonable degree of safety provided for the  
21 residents.

22 (d) The Department shall charge the following fees in  
23 connection with its reviews conducted before June 30, 2004  
24 under this Section:

25 (1) (Blank).

26 (2) (Blank).

1           (3) If the estimated dollar value of the alteration,  
2           addition, or new construction is \$100,000 or more but less  
3           than \$500,000, the fee shall be the greater of \$2,400 or  
4           1.2% of that value.

5           (4) If the estimated dollar value of the alteration,  
6           addition, or new construction is \$500,000 or more but less  
7           than \$1,000,000, the fee shall be the greater of \$6,000 or  
8           0.96% of that value.

9           (5) If the estimated dollar value of the alteration,  
10          addition, or new construction is \$1,000,000 or more but  
11          less than \$5,000,000, the fee shall be the greater of  
12          \$9,600 or 0.22% of that value.

13          (6) If the estimated dollar value of the alteration,  
14          addition, or new construction is \$5,000,000 or more, the  
15          fee shall be the greater of \$11,000 or 0.11% of that value,  
16          but shall not exceed \$40,000. The fees provided in this  
17          subsection (d) shall not apply to major construction  
18          projects involving facility changes that are required by  
19          Department rule amendments. The fees provided in this  
20          subsection (d) shall also not apply to major construction  
21          projects if 51% or more of the estimated cost of the  
22          project is attributed to capital equipment. For major  
23          construction projects where 51% or more of the estimated  
24          cost of the project is attributed to capital equipment, the  
25          Department shall by rule establish a fee that is reasonably  
26          related to the cost of reviewing the project. The

1 Department shall not commence the facility plan review  
2 process under this Section until the applicable fee has  
3 been paid.

4 (e) All fees received by the Department under this Section  
5 shall be deposited into the Health Facility Plan Review Fund, a  
6 special fund created in the State Treasury. All fees paid by  
7 long term care facilities under subsection (d) shall be used  
8 only to cover the costs relating to the Department's review of  
9 long term care facility projects under this Section. Moneys  
10 shall be appropriated from that Fund to the Department only to  
11 pay the costs of conducting reviews under this Section or under  
12 Section 3-202.5 of the Nursing Home Care Act. None of the  
13 moneys in the Health Facility Plan Review Fund shall be used to  
14 reduce the amount of General Revenue Fund moneys appropriated  
15 to the Department for facility plan reviews conducted pursuant  
16 to this Section.

17 (f) (Blank).

18 (g) The Department shall conduct an on site inspection of  
19 the completed project no later than 30 days after notification  
20 from the applicant that the project has been completed and all  
21 certifications required by the Department have been received  
22 and accepted by the Department. The Department shall provide  
23 written approval for occupancy to the applicant within 5  
24 working days of the Department's final inspection, provided the  
25 applicant has demonstrated substantial compliance as defined  
26 by Department rule. Occupancy of new major construction is

1 prohibited until Department approval is received, unless the  
2 Department has not acted within the time frames provided in  
3 this subsection (g), in which case the construction shall be  
4 deemed approved. Occupancy shall be authorized after any  
5 required health inspection by the Department has been  
6 conducted.

7 (h) The Department shall establish, by rule, a procedure to  
8 conduct interim on site review of large or complex construction  
9 projects.

10 (i) The Department shall establish, by rule, an expedited  
11 process for emergency repairs or replacement of like equipment.

12 (j) Nothing in this Section shall be construed to apply to  
13 maintenance, upkeep, or renovation that does not affect the  
14 structural integrity of the building, does not add beds or  
15 services over the number for which the long term care facility  
16 is licensed, and provides a reasonable degree of safety for the  
17 residents.

18 Section 3-203. Standards for persons with developmental  
19 disability or emotional or behavioral disorder. In licensing  
20 any facility for persons with a developmental disability or  
21 persons suffering from emotional or behavioral disorders, the  
22 Department shall consult with the Department of Human Services  
23 in developing minimum standards for such persons.

24 Section 3-204. License classifications. In addition to the

1 authority to prescribe minimum standards, the Department may  
2 adopt license classifications of facilities according to the  
3 levels of service, and if license classification is adopted the  
4 applicable minimum standards shall define the classification.  
5 In adopting classification of the license of facilities, the  
6 Department may give recognition to the classification of  
7 services defined or prescribed by federal statute or federal  
8 rule or regulation. More than one classification of the license  
9 may be issued to the same facility when the prescribed minimum  
10 standards and regulations are met.

11 Section 3-205. Municipalities; license classifications.  
12 Where licensing responsibilities are performed by a city,  
13 village or incorporated town, the municipality shall use the  
14 same classifications as the Department; and a facility may not  
15 be licensed for a different classification by the Department  
16 than by the municipality.

17 Section 3-206. Curriculum for training nursing assistants  
18 and aides. The Department shall prescribe a curriculum for  
19 training nursing assistants, habilitation aides, and child  
20 care aides.

21 (a) No person, except a volunteer who receives no  
22 compensation from a facility and is not included for the  
23 purpose of meeting any staffing requirements set forth by the  
24 Department, shall act as a nursing assistant, habilitation

1 aide, or child care aide in a facility, nor shall any person,  
2 under any other title, not licensed, certified, or registered  
3 to render medical care by the Department of Financial and  
4 Professional Regulation, assist with the personal, medical, or  
5 nursing care of residents in a facility, unless such person  
6 meets the following requirements:

7 (1) Be at least 16 years of age, of temperate habits  
8 and good moral character, honest, reliable and  
9 trustworthy.

10 (2) Be able to speak and understand the English  
11 language or a language understood by a substantial  
12 percentage of the facility's residents.

13 (3) Provide evidence of employment or occupation, if  
14 any, and residence for 2 years prior to his present  
15 employment.

16 (4) Have completed at least 8 years of grade school or  
17 provide proof of equivalent knowledge.

18 (5) Begin a current course of training for nursing  
19 assistants, habilitation aides, or child care aides,  
20 approved by the Department, within 45 days of initial  
21 employment in the capacity of a nursing assistant,  
22 habilitation aide, or child care aide at any facility. Such  
23 courses of training shall be successfully completed within  
24 120 days of initial employment in the capacity of nursing  
25 assistant, habilitation aide, or child care aide at a  
26 facility. Nursing assistants, habilitation aides, and

1 child care aides who are enrolled in approved courses in  
2 community colleges or other educational institutions on a  
3 term, semester or trimester basis, shall be exempt from the  
4 120-day completion time limit. The Department shall adopt  
5 rules for such courses of training. These rules shall  
6 include procedures for facilities to carry on an approved  
7 course of training within the facility.

8 The Department may accept comparable training in lieu  
9 of the 120-hour course for student nurses, foreign nurses,  
10 military personnel, or employees of the Department of Human  
11 Services.

12 The facility shall develop and implement procedures,  
13 which shall be approved by the Department, for an ongoing  
14 review process, which shall take place within the facility,  
15 for nursing assistants, habilitation aides, and child care  
16 aides.

17 At the time of each regularly scheduled licensure  
18 survey, or at the time of a complaint investigation, the  
19 Department may require any nursing assistant, habilitation  
20 aide, or child care aide to demonstrate, either through  
21 written examination or action, or both, sufficient  
22 knowledge in all areas of required training. If such  
23 knowledge is inadequate the Department shall require the  
24 nursing assistant, habilitation aide, or child care aide to  
25 complete inservice training and review in the facility  
26 until the nursing assistant, habilitation aide, or child

1 care aide demonstrates to the Department, either through  
2 written examination or action, or both, sufficient  
3 knowledge in all areas of required training; and

4 (6) Be familiar with and have general skills related to  
5 resident care.

6 (a-0.5) An educational entity, other than a secondary  
7 school, conducting a nursing assistant, habilitation aide, or  
8 child care aide training program shall initiate a UCIA criminal  
9 history record check prior to entry of an individual into the  
10 training program. A secondary school may initiate a UCIA  
11 criminal history record check prior to the entry of an  
12 individual into a training program.

13 (a-1) Nursing assistants, habilitation aides, or child  
14 care aides seeking to be included on the registry must  
15 authorize the Department of Public Health or its designee that  
16 tests nursing assistants to request a UCIA criminal history  
17 check and submit all necessary information.

18 (b) Persons subject to this Section shall perform their  
19 duties under the supervision of a nurse.

20 (c) It is unlawful for any facility to employ any person in  
21 the capacity of nursing assistant, habilitation aide, or child  
22 care aide, or under any other title, not licensed by the State  
23 of Illinois to assist in the personal, medical, or nursing care  
24 of residents in such facility unless such person has complied  
25 with this Section.

26 (d) Proof of compliance by each employee with the

1 requirements set out in this Section shall be maintained for  
2 each such employee by each facility in the individual personnel  
3 folder of the employee.

4 (e) Each facility shall certify to the Department on a form  
5 provided by the Department the name and residence address of  
6 each employee, and that each employee subject to this Section  
7 meets all the requirements of this Section.

8 (f) Any facility that is operated under Section 3-803 shall  
9 be exempt from the requirements of this Section.

10 (g) Each skilled nursing and intermediate care facility  
11 that admits persons who are diagnosed as having Alzheimer's  
12 disease or related dementias shall require all nursing  
13 assistants, habilitation aides, or child care aides, who did  
14 not receive 12 hours of training in the care and treatment of  
15 such residents during the training required under paragraph (5)  
16 of subsection (a), to obtain 12 hours of in house training in  
17 the care and treatment of such residents. If the facility does  
18 not provide the training in house, the training shall be  
19 obtained from other facilities, community colleges or other  
20 educational institutions that have a recognized course for such  
21 training. The Department shall, by rule, establish a recognized  
22 course for such training.

23 The Department's rules shall provide that such training may  
24 be conducted in house at each facility subject to the  
25 requirements of this subsection, in which case such training  
26 shall be monitored by the Department. The Department's rules

1 shall also provide for circumstances and procedures whereby any  
2 person who has received training that meets the requirements of  
3 this subsection shall not be required to undergo additional  
4 training if he or she is transferred to or obtains employment  
5 at a different facility but remains continuously employed as a  
6 nursing assistant, habilitation aide, or child care aide.  
7 Licensed sheltered care facilities shall be exempt from the  
8 requirements of this Section.

9 Section 3-206.01. Health care worker registry.

10 (a) The Department shall establish and maintain a registry  
11 of all individuals who have satisfactorily completed the  
12 training required by Section 3-206. The registry shall include  
13 the name of the nursing assistant, habilitation aide, or child  
14 care aide, his or her current address, Social Security number,  
15 and the date and location of the training course completed by  
16 the individual, and the date of the individual's last criminal  
17 records check. Any individual placed on the registry is  
18 required to inform the Department of any change of address  
19 within 30 days. A facility shall not employ an individual as a  
20 nursing assistant, habilitation aide, or child care aide unless  
21 the facility has inquired of the Department as to information  
22 in the registry concerning the individual and shall not employ  
23 anyone not on the registry unless the individual is enrolled in  
24 a training program under paragraph (5) of subsection (a) of  
25 Section 3-206 of this Act.

1           If the Department finds that a nursing assistant,  
2           habilitation aide, or child care aide has abused a resident,  
3           neglected a resident, or misappropriated resident property in a  
4           facility, the Department shall notify the individual of this  
5           finding by certified mail sent to the address contained in the  
6           registry. The notice shall give the individual an opportunity  
7           to contest the finding in a hearing before the Department or to  
8           submit a written response to the findings in lieu of requesting  
9           a hearing. If, after a hearing or if the individual does not  
10          request a hearing, the Department finds that the individual  
11          abused a resident, neglected a resident, or misappropriated  
12          resident property in a facility, the finding shall be included  
13          as part of the registry as well as a brief statement from the  
14          individual, if he or she chooses to make such a statement. The  
15          Department shall make information in the registry available to  
16          the public. In the case of inquiries to the registry concerning  
17          an individual listed in the registry, any information disclosed  
18          concerning such a finding shall also include disclosure of any  
19          statement in the registry relating to the finding or a clear  
20          and accurate summary of the statement.

21          (b) The Department shall add to the health care worker  
22          registry records of findings as reported by the Inspector  
23          General or remove from the health care worker registry records  
24          of findings as reported by the Department of Human Services,  
25          under subsection (g-5) of Section 1-17 of the Department of  
26          Human Services Act.

1 Section 3-206.02. Designation on registry for offense.

2 (a) The Department, after notice to the nursing assistant,  
3 habilitation aide, or child care aide, may denote that the  
4 Department has found any of the following:

5 (1) The nursing assistant, habilitation aide, or child  
6 care aide has abused a resident.

7 (2) The nursing assistant, habilitation aide, or child  
8 care aide has neglected a resident.

9 (3) The nursing assistant, habilitation aide, or child  
10 care aide has misappropriated resident property.

11 (4) The nursing assistant, habilitation aide, or child  
12 care aide has been convicted of (i) a felony, (ii) a  
13 misdemeanor, an essential element of which is dishonesty,  
14 or (iii) any crime that is directly related to the duties  
15 of a nursing assistant, habilitation aide, or child care  
16 aide.

17 (b) Notice under this Section shall include a clear and  
18 concise statement of the grounds denoting abuse, neglect, or  
19 theft and notice of the opportunity for a hearing to contest  
20 the designation.

21 (c) The Department may denote any nursing assistant,  
22 habilitation aide, or child care aide on the registry who fails  
23 (i) to file a return, (ii) to pay the tax, penalty or interest  
24 shown in a filed return, or (iii) to pay any final assessment  
25 of tax, penalty or interest, as required by any tax Act

1 administered by the Illinois Department of Revenue, until the  
2 time the requirements of the tax Act are satisfied.

3 (c-1) The Department shall document criminal background  
4 check results pursuant to the requirements of the Health Care  
5 Worker Background Check Act.

6 (d) At any time after the designation on the registry  
7 pursuant to subsection (a), (b), or (c) of this Section, a  
8 nursing assistant, habilitation aide, or child care aide may  
9 petition the Department for removal of designation on the  
10 registry. The Department may remove the designation of the  
11 nursing assistant, habilitation aide, or child care aide on the  
12 registry unless, after an investigation and a hearing, the  
13 Department determines that removal of designation is not in the  
14 public interest.

15 Section 3-206.03. Resident attendants.

16 (a) As used in this Section, "resident attendant" means an  
17 individual who assists residents in a facility with the  
18 following activities:

19 (1) eating and drinking; and

20 (2) personal hygiene limited to washing a resident's  
21 hands and face, brushing and combing a resident's hair,  
22 oral hygiene, shaving residents with an electric razor, and  
23 applying makeup.

24 The term "resident attendant" does not include an  
25 individual who:

1           (1) is a licensed health professional or a registered  
2           dietitian;

3           (2) volunteers without monetary compensation;

4           (3) is a nurse assistant; or

5           (4) performs any nursing or nursing related services  
6           for residents of a facility.

7           (b) A facility may employ resident attendants to assist the  
8           nurse aides with the activities authorized under subsection  
9           (a). The resident attendants shall not count in the minimum  
10          staffing requirements under rules implementing this Act.

11          (c) A facility may not use on a full time or other paid  
12          basis any individual as a resident attendant in the facility  
13          unless the individual:

14                 (1) has completed a training and competency evaluation  
15                 program encompassing the tasks the individual provides;  
16                 and

17                 (2) is competent to provide feeding, hydration, and  
18                 personal hygiene services.

19          (d) The training and competency evaluation program may be  
20          facility based. It may include one or more of the following  
21          units:

22                 (1) A feeding unit that is a maximum of 5 hours in  
23                 length.

24                 (2) A hydration unit that is a maximum of 3 hours in  
25                 length.

26                 (3) A personal hygiene unit that is a maximum of 5

1 hours in length. These programs must be reviewed and  
2 approved by the Department every 2 years.

3 (f) A person seeking employment as a resident attendant is  
4 subject to the Health Care Worker Background Check Act.

5 Section 3-206.1. Transfer of ownership following  
6 suspension or revocation; discussion with new owner. Whenever  
7 ownership of a private facility is transferred to another  
8 private owner following a final order for a suspension or  
9 revocation of the facility's license, the Department shall  
10 discuss with the new owner all noted problems associated with  
11 the facility and shall determine what additional training, if  
12 any, is needed for the direct care staff.

13 Section 3-207. Statement of ownership.

14 (a) As a condition of the issuance or renewal of the  
15 license of any facility, the applicant shall file a statement  
16 of ownership. The applicant shall update the information  
17 required in the statement of ownership within 10 days of any  
18 change.

19 (b) The statement of ownership shall include the following:

20 (1) The name, address, telephone number, occupation or  
21 business activity, business address and business telephone  
22 number of the person who is the owner of the facility and  
23 every person who owns the building in which the facility is  
24 located, if other than the owner of the facility, which is

1 the subject of the application or license; and if the owner  
2 is a partnership or corporation, the name of every partner  
3 and stockholder of the owner;

4 (2) The name and address of any facility, wherever  
5 located, any financial interest in which is owned by the  
6 applicant, if the facility were required to be licensed if  
7 it were located in this State;

8 (3) Other information necessary to determine the  
9 identity and qualifications of an applicant or licensee to  
10 operate a facility in accordance with this Act as required  
11 by the Department in regulations.

12 (c) The information in the statement of ownership shall be  
13 public information and shall be available from the Department.

14 Section 3-208. Annual financial statement.

15 (a) Each licensee shall file annually, or more often as the  
16 Director shall by rule prescribe an attested financial  
17 statement. The Director may order an audited financial  
18 statement of a particular facility by an auditor of the  
19 Director's choice, provided the cost of such audit is paid by  
20 the Department.

21 (b) No public funds shall be expended for the maintenance  
22 of any resident in a facility which has failed to file the  
23 financial statement required under this Section and no public  
24 funds shall be paid to or on behalf of a facility which has  
25 failed to file a statement.

1           (c) The Director of Public Health and the Director of  
2 Healthcare and Family Services shall promulgate under Sections  
3 3-801 and 3-802, one set of regulations for the filing of these  
4 financial statements, and shall provide in these regulations  
5 for forms, required information, intervals and dates of filing  
6 and such other provisions as they may deem necessary.

7           (d) The Director of Public Health and the Director of  
8 Healthcare and Family Services shall seek the advice and  
9 comments of other State and federal agencies which require the  
10 submission of financial data from facilities licensed under  
11 this Act and shall incorporate the information requirements of  
12 these agencies so as to impose the least possible burden on  
13 licensees. No other State agency may require submission of  
14 financial data except as expressly authorized by law or as  
15 necessary to meet requirements of federal statutes or  
16 regulations. Information obtained under this Section shall be  
17 made available, upon request, by the Department to any other  
18 State agency or legislative commission to which such  
19 information is necessary for investigations or required for the  
20 purposes of State or federal law or regulation.

21           Section 3-209. Posting of information.     Every facility  
22 shall conspicuously post for display in an area of its offices  
23 accessible to residents, employees, and visitors the  
24 following:

- 25           (1) Its current license;

1           (2) A description, provided by the Department, of  
2           complaint procedures established under this Act and the  
3           name, address, and telephone number of a person authorized  
4           by the Department to receive complaints;

5           (3) A copy of any order pertaining to the facility  
6           issued by the Department or a court; and

7           (4) A list of the material available for public  
8           inspection under Section 3-210.

9           Section 3-210. Materials for public inspection.

10          A facility shall retain the following for public  
11          inspection:

12           (1) A complete copy of every inspection report of the  
13           facility received from the Department during the past 5  
14           years;

15           (2) A copy of every order pertaining to the facility  
16           issued by the Department or a court during the past 5  
17           years;

18           (3) A description of the services provided by the  
19           facility and the rates charged for those services and items  
20           for which a resident may be separately charged;

21           (4) A copy of the statement of ownership required by  
22           Section 3-207;

23           (5) A record of personnel employed or retained by the  
24           facility who are licensed, certified or registered by the  
25           Department of Financial and Professional Regulation (as

1 successor to the Department of Professional Regulation);

2 (6) A complete copy of the most recent inspection  
3 report of the facility received from the Department; and

4 (7) A copy of the current Consumer Choice Information  
5 Report required by Section 2-214.

6 Section 3-211. No State or federal funds to unlicensed  
7 facility. No State or federal funds which are appropriated by  
8 the General Assembly or which pass through the General Revenue  
9 Fund or any special fund in the State Treasury shall be paid to  
10 a facility not having a license issued under this Act.

11 Section 3-212. Inspection of facility by Department;  
12 report.

13 (a) The Department, whenever it deems necessary in  
14 accordance with subsection (b), shall inspect, survey and  
15 evaluate every facility to determine compliance with  
16 applicable licensure requirements and standards. Submission of  
17 a facility's current Consumer Choice Information Report  
18 required by Section 2-214 shall be verified at the time of  
19 inspection. An inspection should occur within 120 days prior to  
20 license renewal. The Department may periodically visit a  
21 facility for the purpose of consultation. An inspection,  
22 survey, or evaluation, other than an inspection of financial  
23 records, shall be conducted without prior notice to the  
24 facility. A visit for the sole purpose of consultation may be

1 announced. The Department shall provide training to surveyors  
2 about the appropriate assessment, care planning, and care of  
3 persons with mental illness (other than Alzheimer's disease or  
4 related disorders) to enable its surveyors to determine whether  
5 a facility is complying with State and federal requirements  
6 about the assessment, care planning, and care of those persons.

7 (a-1) An employee of a State or unit of local government  
8 agency charged with inspecting, surveying, and evaluating  
9 facilities who directly or indirectly gives prior notice of an  
10 inspection, survey, or evaluation, other than an inspection of  
11 financial records, to a facility or to an employee of a  
12 facility is guilty of a Class A misdemeanor. An inspector or an  
13 employee of the Department who intentionally prenotifies a  
14 facility, orally or in writing, of a pending complaint  
15 investigation or inspection shall be guilty of a Class A  
16 misdemeanor. Superiors of persons who have prenotified a  
17 facility shall be subject to the same penalties, if they have  
18 knowingly allowed the prenotification. A person found guilty of  
19 prenotifying a facility shall be subject to disciplinary action  
20 by his or her employer. If the Department has a good faith  
21 belief, based upon information that comes to its attention,  
22 that a violation of this subsection has occurred, it must file  
23 a complaint with the Attorney General or the State's Attorney  
24 in the county where the violation took place within 30 days  
25 after discovery of the information.

26 (a-2) An employee of a State or unit of local government

1 agency charged with inspecting, surveying, or evaluating  
2 facilities who willfully profits from violating the  
3 confidentiality of the inspection, survey, or evaluation  
4 process shall be guilty of a Class 4 felony and that conduct  
5 shall be deemed unprofessional conduct that may subject a  
6 person to loss of his or her professional license. An action to  
7 prosecute a person for violating this subsection (a-2) may be  
8 brought by either the Attorney General or the State's Attorney  
9 in the county where the violation took place.

10 (b) In determining whether to make more than the required  
11 number of unannounced inspections, surveys and evaluations of a  
12 facility the Department shall consider one or more of the  
13 following: previous inspection reports; the facility's history  
14 of compliance with standards, rules and regulations  
15 promulgated under this Act and correction of violations,  
16 penalties or other enforcement actions; the number and severity  
17 of complaints received about the facility; any allegations of  
18 resident abuse or neglect; weather conditions; health  
19 emergencies; other reasonable belief that deficiencies exist.

20 (b-1) The Department shall not be required to determine  
21 whether a facility certified to participate in the Medicare  
22 program under Title XVIII of the Social Security Act, or the  
23 Medicaid program under Title XIX of the Social Security Act,  
24 and which the Department determines by inspection under this  
25 Section or under Section 3-702 of this Act to be in compliance  
26 with the certification requirements of Title XVIII or XIX, is

1 in compliance with any requirement of this Act that is less  
2 stringent than or duplicates a federal certification  
3 requirement. In accordance with subsection (a) of this Section  
4 or subsection (d) of Section 3-702, the Department shall  
5 determine whether a certified facility is in compliance with  
6 requirements of this Act that exceed federal certification  
7 requirements. If a certified facility is found to be out of  
8 compliance with federal certification requirements, the  
9 results of an inspection conducted pursuant to Title XVIII or  
10 XIX of the Social Security Act may be used as the basis for  
11 enforcement remedies authorized and commenced under this Act.  
12 Enforcement of this Act against a certified facility shall be  
13 commenced pursuant to the requirements of this Act, unless  
14 enforcement remedies sought pursuant to Title XVIII or XIX of  
15 the Social Security Act exceed those authorized by this Act. As  
16 used in this subsection, "enforcement remedy" means a sanction  
17 for violating a federal certification requirement or this Act.

18 (c) Upon completion of each inspection, survey and  
19 evaluation, the appropriate Department personnel who conducted  
20 the inspection, survey or evaluation shall submit a copy of  
21 their report to the licensee upon exiting the facility, and  
22 shall submit the actual report to the appropriate regional  
23 office of the Department. Such report and any recommendations  
24 for action by the Department under this Act shall be  
25 transmitted to the appropriate offices of the associate  
26 director of the Department, together with related comments or

1 documentation provided by the licensee which may refute  
2 findings in the report, which explain extenuating  
3 circumstances that the facility could not reasonably have  
4 prevented, or which indicate methods and timetables for  
5 correction of deficiencies described in the report. Without  
6 affecting the application of subsection (a) of Section 3-303,  
7 any documentation or comments of the licensee shall be provided  
8 within 10 days of receipt of the copy of the report. Such  
9 report shall recommend to the Director appropriate action under  
10 this Act with respect to findings against a facility. The  
11 Director shall then determine whether the report's findings  
12 constitute a violation or violations of which the facility must  
13 be given notice. Such determination shall be based upon the  
14 severity of the finding, the danger posed to resident health  
15 and safety, the comments and documentation provided by the  
16 facility, the diligence and efforts to correct deficiencies,  
17 correction of the reported deficiencies, the frequency and  
18 duration of similar findings in previous reports and the  
19 facility's general inspection history. Violations shall be  
20 determined under this subsection no later than 60 days after  
21 completion of each inspection, survey and evaluation.

22 (d) The Department shall maintain all inspection, survey  
23 and evaluation reports for at least 5 years in a manner  
24 accessible to and understandable by the public.

25 Section 3-213. Periodic reports to Department. The

1 Department shall require periodic reports and shall have access  
2 to and may reproduce or photocopy at its cost any books,  
3 records, and other documents maintained by the facility to the  
4 extent necessary to carry out this Act and the rules  
5 promulgated under this Act. The Department shall not divulge or  
6 disclose the contents of a record under this Section in  
7 violation of Section 2-206 or as otherwise prohibited by this  
8 Act.

9 Section 3-214. Consent to Department inspection. Any  
10 holder of a license or applicant for a license shall be deemed  
11 to have given consent to any authorized officer, employee or  
12 agent of the Department to enter and inspect the facility in  
13 accordance with this Article. Refusal to permit such entry or  
14 inspection shall constitute grounds for denial, nonrenewal or  
15 revocation of a license as provided in Section 3-117 or 3-119  
16 of this Act.

17 Section 3-215. Annual report on facility by Department. The  
18 Department shall make at least one report on each facility in  
19 the State annually, unless the facility has been issued a  
20 2-year license under subsection (b) of Section 3-110 for which  
21 the report shall be made every 2-years. All conditions and  
22 practices not in compliance with applicable standards within  
23 the report period shall be specifically stated. If a violation  
24 is corrected or is subject to an approved plan of correction,

1 the same shall be specified in the report. The Department shall  
2 send a copy to any person on receiving a written request. The  
3 Department may charge a reasonable fee to cover copying costs.

4 PART 3. VIOLATIONS AND PENALTIES

5 Section 3-301. Notice of violation of Act or rules. If  
6 after receiving the report specified in subsection (c) of  
7 Section 3-212 the Director or his designee determines that a  
8 facility is in violation of this Act or of any rule promulgated  
9 thereunder, he shall serve a notice of violation upon the  
10 licensee within 10 days thereafter. Each notice of violation  
11 shall be prepared in writing and shall specify the nature of  
12 the violation, and the statutory provision or rule alleged to  
13 have been violated. The notice shall inform the licensee of any  
14 action the Department may take under the Act, including the  
15 requirement of a facility plan of correction under Section  
16 3-303; placement of the facility on a list prepared under  
17 Section 3-304; assessment of a penalty under Section 3-305; a  
18 conditional license under Sections 3-311 through 3-317; or  
19 license suspension or revocation under Section 3-119. The  
20 Director or his designee shall also inform the licensee of  
21 rights to a hearing under Section 3-703.

22 Section 3-302. Each day a separate violation. Each day the  
23 violation exists after the date upon which a notice of

1 violation is served under Section 3-301 shall constitute a  
2 separate violation for purposes of assessing penalties or fines  
3 under Section 3-305. The submission of a plan of correction  
4 pursuant to subsection (b) of Section 3-303 does not prohibit  
5 or preclude the Department from assessing penalties or fines  
6 pursuant to Section 3-305 for those violations found to be  
7 valid except as provided under Section 3-308 in relation to  
8 Type "B" violations. No penalty or fine may be assessed for a  
9 condition for which the facility has received a variance or  
10 waiver of a standard.

11 Section 3-303. Correction of violations; hearing.

12 (a) The situation, condition or practice constituting a  
13 Type "A" violation shall be abated or eliminated immediately  
14 unless a fixed period of time, not exceeding 15 days, as  
15 determined by the Department and specified in the notice of  
16 violation, is required for correction.

17 (b) At the time of issuance of a notice of a Type "B"  
18 violation, the Department shall request a plan of correction  
19 which is subject to the Department's approval. The facility  
20 shall have 10 days after receipt of notice of violation in  
21 which to prepare and submit a plan of correction. The  
22 Department may extend this period up to 30 days where  
23 correction involves substantial capital improvement. The plan  
24 shall include a fixed time period not in excess of 90 days  
25 within which violations are to be corrected. If the Department

1 rejects a plan of correction, it shall send notice of the  
2 rejection and the reason for the rejection to the facility. The  
3 facility shall have 10 days after receipt of the notice of  
4 rejection in which to submit a modified plan. If the modified  
5 plan is not timely submitted, or if the modified plan is  
6 rejected, the facility shall follow an approved plan of  
7 correction imposed by the Department.

8 (c) If the violation has been corrected prior to submission  
9 and approval of a plan of correction, the facility may submit a  
10 report of correction in place of a plan of correction. Such  
11 report shall be signed by the administrator under oath.

12 (d) Upon a licensee's petition, the Department shall  
13 determine whether to grant a licensee's request for an extended  
14 correction time. Such petition shall be served on the  
15 Department prior to expiration of the correction time  
16 originally approved. The burden of proof is on the petitioning  
17 facility to show good cause for not being able to comply with  
18 the original correction time approved.

19 (e) If a facility desires to contest any Department action  
20 under this Section it shall send a written request for a  
21 hearing under Section 3-703 to the Department within 10 days of  
22 receipt of notice of the contested action. The Department shall  
23 commence the hearing as provided under Section 3-703. Whenever  
24 possible, all action of the Department under this Section  
25 arising out of a violation shall be contested and determined at  
26 a single hearing. Issues decided after a hearing may not be

1 reheard at subsequent hearings under this Section.

2 Section 3-303.1. Waiver of facility's compliance with rule  
3 or standard. Upon application by a facility, the Director may  
4 grant or renew the waiver of the facility's compliance with a  
5 rule or standard for a period not to exceed the duration of the  
6 current license or, in the case of an application for license  
7 renewal, the duration of the renewal period. The waiver may be  
8 conditioned upon the facility taking action prescribed by the  
9 Director as a measure equivalent to compliance. In determining  
10 whether to grant or renew a waiver, the Director shall consider  
11 the duration and basis for any current waiver with respect to  
12 the same rule or standard and the validity and effect upon  
13 patient health and safety of extending it on the same basis,  
14 the effect upon the health and safety of residents, the quality  
15 of resident care, the facility's history of compliance with the  
16 rules and standards of this Act and the facility's attempts to  
17 comply with the particular rule or standard in question. The  
18 Department may provide, by rule, for the automatic renewal of  
19 waivers concerning physical plant requirements upon the  
20 renewal of a license. The Department shall renew waivers  
21 relating to physical plant standards issued pursuant to this  
22 Section at the time of the indicated reviews, unless it can  
23 show why such waivers should not be extended for the following  
24 reasons:

25 (a) the condition of the physical plant has deteriorated or

1 its use substantially changed so that the basis upon which the  
2 waiver was issued is materially different; or

3 (b) the facility is renovated or substantially remodeled in  
4 such a way as to permit compliance with the applicable rules  
5 and standards without substantial increase in cost. A copy of  
6 each waiver application and each waiver granted or renewed  
7 shall be on file with the Department and available for public  
8 inspection. The Director shall annually review such file and  
9 recommend to the Long-Term Care Facility Advisory Board  
10 established under Section 2-204 of the Nursing Home Care Act  
11 any modification in rules or standards suggested by the number  
12 and nature of waivers requested and granted and the  
13 difficulties faced in compliance by similarly situated  
14 facilities.

15 Section 3-303.2. Administrative warning.

16 (a) If the Department finds a situation, condition or  
17 practice which violates this Act or any rule promulgated  
18 thereunder which does not directly threaten the health, safety  
19 or welfare of a resident, the Department shall issue an  
20 administrative warning. Any administrative warning shall be  
21 served upon the facility in the same manner as the notice of  
22 violation under Section 3-301. The facility shall be  
23 responsible for correcting the situation, condition or  
24 practice; however, no written plan of correction need be  
25 submitted for an administrative warning, except for violations

1 of Sections 3-401 through 3-413 or the rules promulgated  
2 thereunder. A written plan of correction is required to be  
3 filed for an administrative warning issued for violations of  
4 Sections 3-401 through 3-413 or the rules promulgated  
5 thereunder.

6 (b) If, however, the situation, condition or practice which  
7 resulted in the issuance of an administrative warning, with the  
8 exception of administrative warnings issued pursuant to  
9 Sections 3-401 through 3-413 or the rules promulgated  
10 thereunder, is not corrected by the next on site inspection by  
11 the Department which occurs no earlier than 90 days from the  
12 issuance of the administrative warning, a written plan of  
13 correction must be submitted in the same manner as provided in  
14 subsection (b) of Section 3-303.

15 Section 3-304. Quarterly list of facilities against which  
16 Department has taken action.

17 (a) The Department shall prepare on a quarterly basis a  
18 list containing the names and addresses of all facilities  
19 against which the Department during the previous quarter has:

20 (1) sent a notice under Section 3-307 regarding a  
21 penalty assessment under subsection (1) of Section 3-305;

22 (2) sent a notice of license revocation under Section  
23 3-119;

24 (3) sent a notice refusing renewal of a license under  
25 Section 3-119;

1           (4) sent a notice to suspend a license under Section  
2           3-119;

3           (5) issued a conditional license for violations that  
4           have not been corrected under Section 3-303 or penalties or  
5           fines described under Section 3-305 have been assessed  
6           under Section 3-307 or 3-308;

7           (6) placed a monitor under subsections (a), (b) and (c)  
8           of Section 3-501 and under subsection (d) of such Section  
9           where license revocation or nonrenewal notices have also  
10          been issued;

11          (7) initiated an action to appoint a receiver;

12          (8) recommended to the Director of Healthcare and  
13          Family Services, or the Secretary of the United States  
14          Department of Health and Human Services, the  
15          decertification for violations in relation to patient care  
16          of a facility pursuant to Titles XVIII and XIX of the  
17          federal Social Security Act.

18          (b) In addition to the name and address of the facility,  
19          the list shall include the name and address of the person or  
20          licensee against whom the action has been initiated, a self  
21          explanatory summary of the facts which warranted the initiation  
22          of each action, the type of action initiated, the date of the  
23          initiation of the action, the amount of the penalty sought to  
24          be assessed, if any, and the final disposition of the action,  
25          if completed.

26          (c) The list shall be available to any member of the public

1 upon oral or written request without charge.

2 Section 3-304.1. Public computer access to information.

3 (a) The Department must make information regarding nursing  
4 homes in the State available to the public in electronic form  
5 on the World Wide Web, including all of the following  
6 information:

7 (1) who regulates facilities licensed under this Act;

8 (2) information in the possession of the Department  
9 that is listed in Sections 3-210 and 3-304;

10 (3) deficiencies and plans of correction;

11 (4) enforcement remedies;

12 (5) penalty letters;

13 (6) designation of penalty monies;

14 (7) the U.S. Department of Health and Human Services'  
15 Health Care Financing Administration special projects or  
16 federally required inspections;

17 (8) advisory standards;

18 (9) deficiency free surveys; and

19 (10) enforcement actions and enforcement summaries.

20 (b) No fee or other charge may be imposed by the Department  
21 as a condition of accessing the information.

22 (c) The electronic public access provided through the World  
23 Wide Web shall be in addition to any other electronic or print  
24 distribution of the information.

25 (d) The information shall be made available as provided in

1 this Section in the shortest practicable time after it is  
2 publicly available in any other form.

3 Section 3-305. Penalties or fines. The license of a  
4 facility which is in violation of this Act or any rule adopted  
5 thereunder may be subject to the penalties or fines levied by  
6 the Department as specified in this Section.

7 (1) Unless a greater penalty or fine is allowed under  
8 subsection (3), a licensee who commits a Type "A" violation  
9 as defined in Section 1-129 is automatically issued a  
10 conditional license for a period of 6 months to coincide  
11 with an acceptable plan of correction and assessed a fine  
12 computed at a rate of \$5.00 per resident in the facility  
13 plus 20 cents per resident for each day of the violation,  
14 commencing on the date a notice of the violation is served  
15 under Section 3-301 and ending on the date the violation is  
16 corrected, or a fine of not less than \$5,000, or when  
17 death, serious mental or physical harm, permanent  
18 disability, or disfigurement results, a fine of not less  
19 than \$10,000, whichever is greater.

20 (2) A licensee who commits a Type "B" violation or who  
21 is issued an administrative warning for a violation of  
22 Sections 3-401 through 3-413 or the rules promulgated  
23 thereunder is subject to a penalty computed at a rate of \$3  
24 per resident in the facility, plus 15 cents per resident  
25 for each day of the violation, commencing on the date a

1 notice of the violation is served under Section 3-301 and  
2 ending on the date the violation is corrected, or a fine  
3 not less than \$500, whichever is greater. Such fine shall  
4 be assessed on the date of notice of the violation and  
5 shall be suspended for violations that continue after such  
6 date upon completion of a plan of correction in accordance  
7 with Section 3-308 in relation to the assessment of fines  
8 and correction. Failure to correct such violation within  
9 the time period approved under a plan of correction shall  
10 result in a fine and conditional license as provided under  
11 subsection (5).

12 (3) A licensee who commits a Type "A" violation as  
13 defined in Section 1-129 which continues beyond the time  
14 specified in paragraph (a) of Section 3 303 which is cited  
15 as a repeat violation shall have its license revoked and  
16 shall be assessed a fine of 3 times the fine computed per  
17 resident per day under subsection (1).

18 (4) A licensee who fails to satisfactorily comply with  
19 an accepted plan of correction for a Type "B" violation or  
20 an administrative warning issued pursuant to Sections  
21 3-401 through 3-413 or the rules promulgated thereunder  
22 shall be automatically issued a conditional license for a  
23 period of not less than 6 months. A second or subsequent  
24 acceptable plan of correction shall be filed. A fine shall  
25 be assessed in accordance with subsection (2) when cited  
26 for the repeat violation. This fine shall be computed for

1 all days of the violation, including the duration of the  
2 first plan of correction compliance time.

3 (5) For the purpose of computing a penalty under  
4 subsections (2) through (4), the number of residents per  
5 day shall be based on the average number of residents in  
6 the facility during the 30 days preceding the discovery of  
7 the violation.

8 (6) When the Department finds that a provision of  
9 Article II has been violated with regard to a particular  
10 resident, the Department shall issue an order requiring the  
11 facility to reimburse the resident for injuries incurred,  
12 or \$100, whichever is greater. In the case of a violation  
13 involving any action other than theft of money belonging to  
14 a resident, reimbursement shall be ordered only if a  
15 provision of Article II has been violated with regard to  
16 that or any other resident of the facility within the 2  
17 years immediately preceding the violation in question.

18 (7) For purposes of assessing fines under this Section,  
19 a repeat violation shall be a violation which has been  
20 cited during one inspection of the facility for which an  
21 accepted plan of correction was not complied with. A repeat  
22 violation shall not be a new citation of the same rule,  
23 unless the licensee is not substantially addressing the  
24 issue routinely throughout the facility.

25 Section 3-306. Factors to be considered in determining

1 penalty. In determining whether a penalty is to be imposed and  
2 in fixing the amount of the penalty to be imposed, if any, for  
3 a violation, the Director shall consider the following factors:

4 (1) The gravity of the violation, including the  
5 probability that death or serious physical or mental harm  
6 to a resident will result or has resulted; the severity of  
7 the actual or potential harm, and the extent to which the  
8 provisions of the applicable statutes or regulations were  
9 violated;

10 (2) The reasonable diligence exercised by the licensee  
11 and efforts to correct violations;

12 (3) Any previous violations committed by the licensee;  
13 and

14 (4) The financial benefit to the facility of committing  
15 or continuing the violation.

16 Section 3-307. Assessment of penalties; notice. The  
17 Director may directly assess penalties provided for under  
18 Section 3-305 of this Act. If the Director determines that a  
19 penalty should be assessed for a particular violation or for  
20 failure to correct it, he shall send a notice to the facility.  
21 The notice shall specify the amount of the penalty assessed,  
22 the violation, the statute or rule alleged to have been  
23 violated, and shall inform the licensee of the right to hearing  
24 under Section 3-703 of this Act. If the violation is  
25 continuing, the notice shall specify the amount of additional

1 assessment per day for the continuing violation.

2 Section 3-308. Time of assessment; plan of correction. In  
3 the case of a Type "A" violation, a penalty may be assessed  
4 from the date on which the violation is discovered. In the case  
5 of a Type "B" or Type "C" violation or an administrative  
6 warning issued pursuant to Sections 3-401 through 3-413 or the  
7 rules promulgated thereunder, the facility shall submit a plan  
8 of correction as provided in Section 3-303. In the case of a  
9 Type "B" violation or an administrative warning issued pursuant  
10 to Sections 3-401 through 3-413 or the rules promulgated  
11 thereunder, a penalty shall be assessed on the date of notice  
12 of the violation, but the Director may reduce the amount or  
13 waive such payment for any of the following reasons:

14 (a) The facility submits a true report of correction within  
15 10 days;

16 (b) The facility submits a plan of correction within 10  
17 days and subsequently submits a true report of correction  
18 within 15 days thereafter;

19 (c) The facility submits a plan of correction within 10  
20 days which provides for a correction time that is less than or  
21 equal to 30 days and the Department approves such plan; or

22 (d) The facility submits a plan of correction for  
23 violations involving substantial capital improvements which  
24 provides for correction within the initial 90 day limit  
25 provided under Section 3-303. The Director shall consider the

1 following factors in determinations to reduce or waive such  
2 penalties:

3 (1) The violation has not caused actual harm to a  
4 resident;

5 (2) The facility has made a diligent effort to correct  
6 the violation and to prevent its recurrence;

7 (3) The facility has no record of a pervasive pattern  
8 of the same or similar violations; and

9 (4) The facility has a record of substantial compliance  
10 with this Act and the regulations promulgated hereunder.

11 If a plan of correction is approved and carried out for a  
12 Type "C" violation, the fine provided under Section 3-305 shall  
13 be suspended for the time period specified in the approved plan  
14 of correction. If a plan of correction is approved and carried  
15 out for a Type "B" violation or an administrative warning  
16 issued pursuant to Sections 3-401 through 3-413 or the rules  
17 promulgated thereunder, with respect to a violation that  
18 continues after the date of notice of violation, the fine  
19 provided under Section 3-305 shall be suspended for the time  
20 period specified in the approved plan of correction.

21 If a good faith plan of correction is not received within  
22 the time provided by Section 3-303, a penalty may be assessed  
23 from the date of the notice of the Type "B" or "C" violation or  
24 an administrative warning issued pursuant to Sections 3-401  
25 through 3-413 or the rules promulgated thereunder served under  
26 Section 3-301 until the date of the receipt of a good faith

1 plan of correction, or until the date the violation is  
2 corrected, whichever is earlier. If a violation is not  
3 corrected within the time specified by an approved plan of  
4 correction or any lawful extension thereof, a penalty may be  
5 assessed from the date of notice of the violation, until the  
6 date the violation is corrected.

7 Section 3-309. Contesting assessment of penalty. A  
8 facility may contest an assessment of a penalty by sending a  
9 written request to the Department for hearing under Section  
10 3-703. Upon receipt of the request the Department shall hold a  
11 hearing as provided under Section 3-703.

12 Section 3-310. Collection of penalties. All penalties  
13 shall be paid to the Department within 10 days of receipt of  
14 notice of assessment or, if the penalty is contested under  
15 Section 3-309, within 10 days of receipt of the final decision,  
16 unless the decision is appealed and the order is stayed by  
17 court order under Section 3-713. A penalty assessed under this  
18 Act shall be collected by the Department and shall be deposited  
19 with the State Treasurer into the Long Term Care  
20 Monitor/Receiver Fund. If the person or facility against whom a  
21 penalty has been assessed does not comply with a written demand  
22 for payment within 30 days, the Director shall issue an order  
23 to do any of the following:

24 (1) Direct the State Treasurer to deduct the amount of

1 the fine from amounts otherwise due from the State for the  
2 penalty and remit that amount to the Department;

3 (2) Add the amount of the penalty to the facility's  
4 licensing fee; if the licensee refuses to make the payment  
5 at the time of application for renewal of its license, the  
6 license shall not be renewed; or

7 (3) Bring an action in circuit court to recover the  
8 amount of the penalty.

9 With the approval of the federal centers for Medicaid and  
10 Medicare services, the Director of Public Health shall set  
11 aside 50% of the federal civil monetary penalties collected  
12 each year to be used to award grants under the Innovations in  
13 Long term Care Quality Grants Act.

14 Section 3-311. Issuance of conditional license in addition  
15 to penalties. In addition to the right to assess penalties  
16 under this Act, the Director may issue a conditional license  
17 under Section 3-305 to any facility if the Director finds that  
18 either a Type "A" or Type "B" violation exists in such  
19 facility. The issuance of a conditional license shall revoke  
20 any license held by the facility.

21 Section 3-312. Plan of correction required before issuance  
22 of conditional license. Prior to the issuance of a conditional  
23 license, the Department shall review and approve a written plan  
24 of correction. The Department shall specify the violations

1 which prevent full licensure and shall establish a time  
2 schedule for correction of the deficiencies. Retention of the  
3 license shall be conditional on the timely correction of the  
4 deficiencies in accordance with the plan of correction.

5 Section 3-313. Notice of issuance of conditional license.  
6 Written notice of the decision to issue a conditional license  
7 shall be sent to the applicant or licensee together with the  
8 specification of all violations of this Act and the rules  
9 promulgated thereunder which prevent full licensure and which  
10 form the basis for the Department's decision to issue a  
11 conditional license and the required plan of correction. The  
12 notice shall inform the applicant or licensee of its right to a  
13 full hearing under Section 3-315 to contest the issuance of the  
14 conditional license.

15 Section 3-315. Hearing on conditional license or plan of  
16 correction. If the applicant or licensee desires to contest the  
17 basis for issuance of a conditional license, or the terms of  
18 the plan of correction, the applicant or licensee shall send a  
19 written request for hearing to the Department within 10 days  
20 after receipt by the applicant or licensee of the Department's  
21 notice and decision to issue a conditional license. The  
22 Department shall hold the hearing as provided under Section  
23 3-703.

1           Section 3-316. Period of conditional license. A  
2 conditional license shall be issued for a period specified by  
3 the Department, but in no event for more than one year. The  
4 Department shall periodically inspect any facility operating  
5 under a conditional license. If the Department finds  
6 substantial failure by the facility to timely correct the  
7 violations which prevented full licensure and formed the basis  
8 for the Department's decision to issue a conditional license in  
9 accordance with the required plan of correction, the  
10 conditional license may be revoked as provided under Section  
11 3-119.

12           Section 3-318. Business offenses.

13           (a) No person shall:

14                 (1) Intentionally fail to correct or interfere with the  
15 correction of a Type "A" or Type "B" violation within the  
16 time specified on the notice or approved plan of correction  
17 under this Act as the maximum period given for correction,  
18 unless an extension is granted and the corrections are made  
19 before expiration of extension;

20                 (2) Intentionally prevent, interfere with, or attempt  
21 to impede in any way any duly authorized investigation and  
22 enforcement of this Act;

23                 (3) Intentionally prevent or attempt to prevent any  
24 examination of any relevant books or records pertinent to  
25 investigations and enforcement of this Act;

1           (4) Intentionally prevent or interfere with the  
2           preservation of evidence pertaining to any violation of  
3           this Act or the rules promulgated under this Act;

4           (5) Intentionally retaliate or discriminate against  
5           any resident or employee for contacting or providing  
6           information to any state official, or for initiating,  
7           participating in, or testifying in an action for any remedy  
8           authorized under this Act;

9           (6) Wilfully file any false, incomplete or  
10           intentionally misleading information required to be filed  
11           under this Act, or wilfully fail or refuse to file any  
12           required information; or

13           (7) Open or operate a facility without a license.

14           (b) A violation of this Section is a business offense,  
15           punishable by a fine not to exceed \$10,000, except as otherwise  
16           provided in subsection (2) of Section 3-103 as to submission of  
17           false or misleading information in a license application.

18           (c) The State's Attorney of the county in which the  
19           facility is located, or the Attorney General, shall be notified  
20           by the Director of any violations of this Section.

21           Section 3-320. Review under Administrative Review Law. All  
22           final administrative decisions of the Department under this Act  
23           are subject to judicial review under the Administrative Review  
24           Law, as now or hereafter amended, and the rules adopted  
25           pursuant thereto. The term "administrative decision" is

1 defined as in Section 3-101 of the Code of Civil Procedure.

2 PART 4. DISCHARGE AND TRANSFER

3 Section 3-401. Involuntary transfer or discharge of  
4 resident. A facility may involuntarily transfer or discharge a  
5 resident only for one or more of the following reasons:

6 (a) for medical reasons;

7 (b) for the resident's physical safety;

8 (c) for the physical safety of other residents, the  
9 facility staff or facility visitors; or

10 (d) for either late payment or nonpayment for the  
11 resident's stay, except as prohibited by Titles XVIII and XIX  
12 of the federal Social Security Act. For purposes of this  
13 Section, "late payment" means non receipt of payment after  
14 submission of a bill. If payment is not received within 45 days  
15 after submission of a bill, a facility may send a notice to the  
16 resident and responsible party requesting payment within 30  
17 days. If payment is not received within such 30 days, the  
18 facility may thereupon institute transfer or discharge  
19 proceedings by sending a notice of transfer or discharge to the  
20 resident and responsible party by registered or certified mail.  
21 The notice shall state, in addition to the requirements of  
22 Section 3-403 of this Act, that the responsible party has the  
23 right to pay the amount of the bill in full up to the date the  
24 transfer or discharge is to be made and then the resident shall

1 have the right to remain in the facility. Such payment shall  
2 terminate the transfer or discharge proceedings. This  
3 subsection does not apply to those residents whose care is  
4 provided for under the Illinois Public Aid Code. The Department  
5 shall adopt rules setting forth the criteria and procedures to  
6 be applied in cases of involuntary transfer or discharge  
7 permitted under this Section.

8 Section 3-401.1. Medical assistance recipients.

9 (a) A facility participating in the Medical Assistance  
10 Program is prohibited from failing or refusing to retain as a  
11 resident any person because he or she is a recipient of or an  
12 applicant for the Medical Assistance Program.

13 (a-5) A facility of which only a distinct part is certified  
14 to participate in the Medical Assistance Program may refuse to  
15 retain as a resident any person who resides in a part of the  
16 facility that does not participate in the Medical Assistance  
17 Program and who is unable to pay for his or her care in the  
18 facility without Medical Assistance only if:

19 (1) the facility, no later than at the time of  
20 admission and at the time of the resident's contract  
21 renewal, explains to the resident (unless he or she is  
22 incompetent), and to the resident's representative, and to  
23 the person making payment on behalf of the resident for the  
24 resident's stay, in writing, that the facility may  
25 discharge the resident if the resident is no longer able to

1 pay for his or her care in the facility without Medical  
2 Assistance;

3 (2) the resident (unless he or she is incompetent), the  
4 resident's representative, and the person making payment  
5 on behalf of the resident for the resident's stay,  
6 acknowledge in writing that they have received the written  
7 explanation.

8 (a-10) For the purposes of this Section, a recipient or  
9 applicant shall be considered a resident in the facility during  
10 any hospital stay totaling 10 days or less following a hospital  
11 admission. The Department of Healthcare and Family Services  
12 shall recoup funds from a facility when, as a result of the  
13 facility's refusal to readmit a recipient after  
14 hospitalization for 10 days or less, the recipient incurs  
15 hospital bills in an amount greater than the amount that would  
16 have been paid by that Department for care of the recipient in  
17 the facility. The amount of the recoupment shall be the  
18 difference between the Department of Healthcare and Family  
19 Services' payment for hospital care and the amount that  
20 Department would have paid for care in the facility.

21 (b) A facility which violates this Section shall be guilty  
22 of a business offense and fined not less than \$500 nor more  
23 than \$1,000 for the first offense and not less than \$1,000 nor  
24 more than \$5,000 for each subsequent offense.

25 Section 3-402. Notice of involuntary transfer or

1 discharge. Involuntary transfer or discharge of a resident from  
2 a facility shall be preceded by the discussion required under  
3 Section 3-408 and by a minimum written notice of 21 days,  
4 except in one of the following instances:

5 (a) when an emergency transfer or discharge is ordered by  
6 the resident's attending physician because of the resident's  
7 health care needs; or

8 (b) when the transfer or discharge is mandated by the  
9 physical safety of other residents, the facility staff, or  
10 facility visitors, as documented in the clinical record. The  
11 Department shall be notified prior to any such involuntary  
12 transfer or discharge. The Department shall immediately offer  
13 transfer, or discharge and relocation assistance to residents  
14 transferred or discharged under this subparagraph (b), and the  
15 Department may place relocation teams as provided in Section  
16 3-419 of this Act.

17 Section 3-403. Contents of notice; right to hearing. The  
18 notice required by Section 3-402 shall be on a form prescribed  
19 by the Department and shall contain all of the following:

20 (a) The stated reason for the proposed transfer or  
21 discharge;

22 (b) The effective date of the proposed transfer or  
23 discharge;

24 (c) A statement in not less than 12 point type, which  
25 reads: "You have a right to appeal the facility's decision to

1 transfer or discharge you. If you think you should not have to  
2 leave this facility, you may file a request for a hearing with  
3 the Department of Public Health within 10 days after receiving  
4 this notice. If you request a hearing, it will be held not  
5 later than 10 days after your request, and you generally will  
6 not be transferred or discharged during that time. If the  
7 decision following the hearing is not in your favor, you  
8 generally will not be transferred or discharged prior to the  
9 expiration of 30 days following receipt of the original notice  
10 of the transfer or discharge. A form to appeal the facility's  
11 decision and to request a hearing is attached. If you have any  
12 questions, call the Department of Public Health at the  
13 telephone number listed below.";

14 (d) A hearing request form, together with a postage paid,  
15 preaddressed envelope to the Department; and

16 (e) The name, address, and telephone number of the person  
17 charged with the responsibility of supervising the transfer or  
18 discharge.

19 Section 3-404. Request for hearing; effect on transfer. A  
20 request for a hearing made under Section 3-403 shall stay a  
21 transfer pending a hearing or appeal of the decision, unless a  
22 condition which would have allowed transfer or discharge in  
23 less than 21 days as described under paragraphs (a) and (b) of  
24 Section 3-402 develops in the interim.

1           Section 3-405. Copy of notice in resident's record; copy to  
2 Department. A copy of the notice required by Section 3-402  
3 shall be placed in the resident's clinical record and a copy  
4 shall be transmitted to the Department, the resident, the  
5 resident's representative, and, if the resident's care is paid  
6 for in whole or part through Title XIX, the Department of  
7 Healthcare and Family Services.

8           Section 3-406. Medical assistance recipient; transfer or  
9 discharge as result of action by Department of Healthcare and  
10 Family Services. When the basis for an involuntary transfer or  
11 discharge is the result of an action by the Department of  
12 Healthcare and Family Services with respect to a recipient of  
13 Title XIX and a hearing request is filed with the Department of  
14 Healthcare and Family Services, the 21-day written notice  
15 period shall not begin until a final decision in the matter is  
16 rendered by the Department of Healthcare and Family Services or  
17 a court of competent jurisdiction and notice of that final  
18 decision is received by the resident and the facility.

19           Section 3-407. Nonpayment as basis for transfer or  
20 discharge. When nonpayment is the basis for involuntary  
21 transfer or discharge, the resident shall have the right to  
22 redeem up to the date that the discharge or transfer is to be  
23 made and then shall have the right to remain in the facility.

1           Section 3-408. Discussion of planned transfer or  
2 discharge. The planned involuntary transfer or discharge shall  
3 be discussed with the resident, the resident's representative  
4 and person or agency responsible for the resident's placement,  
5 maintenance, and care in the facility. The explanation and  
6 discussion of the reasons for involuntary transfer or discharge  
7 shall include the facility administrator or other appropriate  
8 facility representative as the administrator's designee. The  
9 content of the discussion and explanation shall be summarized  
10 in writing and shall include the names of the individuals  
11 involved in the discussions and made a part of the resident's  
12 clinical record.

13           Section 3-409. Counseling services. The facility shall  
14 offer the resident counseling services before the transfer or  
15 discharge of the resident.

16           Section 3-410. Request for hearing on transfer or  
17 discharge. A resident subject to involuntary transfer or  
18 discharge from a facility, the resident's guardian or if the  
19 resident is a minor, his parent shall have the opportunity to  
20 file a request for a hearing with the Department within 10 days  
21 following receipt of the written notice of the involuntary  
22 transfer or discharge by the facility.

23           Section 3-411. Hearing; time. The Department of Public

1 Health, when the basis for involuntary transfer or discharge is  
2 other than action by the Department of Healthcare and Family  
3 Services with respect to the Title XIX Medicaid recipient,  
4 shall hold a hearing at the resident's facility not later than  
5 10 days after a hearing request is filed, and render a decision  
6 within 14 days after the filing of the hearing request.

7 Section 3-412. Conduct of hearing. The hearing before the  
8 Department provided under Section 3-411 shall be conducted as  
9 prescribed under Section 3-703. In determining whether a  
10 transfer or discharge is authorized, the burden of proof in  
11 this hearing rests on the person requesting the transfer or  
12 discharge.

13 Section 3-413. Time for leaving facility. If the Department  
14 determines that a transfer or discharge is authorized under  
15 Section 3-401, the resident shall not be required to leave the  
16 facility before the 34th day following receipt of the notice  
17 required under Section 3-402, or the 10th day following receipt  
18 of the Department's decision, whichever is later, unless a  
19 condition which would have allowed transfer or discharge in  
20 less than 21 days as described under paragraphs (a) and (b) of  
21 Section 3-402 develops in the interim.

22 Section 3-414. Continuation of medical assistance funding.  
23 The Department of Healthcare and Family Services shall continue

1 Title XIX Medicaid funding during the appeal, transfer, or  
2 discharge period for those residents who are Title XIX  
3 recipients affected by Section 3-401.

4 Section 3-415. Transfer or discharge by Department;  
5 grounds. The Department may transfer or discharge any resident  
6 from any facility required to be licensed under this Act when  
7 any of the following conditions exist:

8 (a) Such facility is operating without a license;

9 (b) The Department has suspended, revoked or refused to  
10 renew the license of the facility as provided under Section  
11 3-119;

12 (c) The facility has requested the aid of the Department in  
13 the transfer or discharge of the resident and the Department  
14 finds that the resident consents to transfer or discharge;

15 (d) The facility is closing or intends to close and  
16 adequate arrangement for relocation of the resident has not  
17 been made at least 30 days prior to closure; or

18 (e) The Department determines that an emergency exists  
19 which requires immediate transfer or discharge of the resident.

20 Section 3-416. Transfer or discharge by Department;  
21 likelihood of serious harm. In deciding to transfer or  
22 discharge a resident from a facility under Section 3-415, the  
23 Department shall consider the likelihood of serious harm which  
24 may result if the resident remains in the facility.

1           Section 3-417. Relocation assistance. The Department shall  
2 offer transfer or discharge and relocation assistance to  
3 residents transferred or discharged under Sections 3-401  
4 through 3-415, including information on available alternative  
5 placements. Residents shall be involved in planning the  
6 transfer or discharge and shall choose among the available  
7 alternative placements, except that where an emergency makes  
8 prior resident involvement impossible the Department may make a  
9 temporary placement until a final placement can be arranged.  
10 Residents may choose their final alternative placement and  
11 shall be given assistance in transferring to such place. No  
12 resident may be forced to remain in a temporary or permanent  
13 placement. Where the Department makes or participates in making  
14 the relocation decision, consideration shall be given to  
15 proximity to the resident's relatives and friends. The resident  
16 shall be allowed 3 visits to potential alternative placements  
17 prior to removal, except where medically contraindicated or  
18 where the need for immediate transfer or discharge requires  
19 reduction in the number of visits.

20           Section 3-418. Transfer or discharge plans. The Department  
21 shall prepare resident transfer or discharge plans to assure  
22 safe and orderly removals and protect residents' health,  
23 safety, welfare and rights. In nonemergencies, and where  
24 possible in emergencies, the Department shall design and

1 implement such plans in advance of transfer or discharge.

2 Section 3-419. Relocation teams. The Department may place  
3 relocation teams in any facility from which residents are being  
4 discharged or transferred for any reason, for the purpose of  
5 implementing transfer or discharge plans.

6 Section 3-420. Transfer or discharge by Department;  
7 notice. In any transfer or discharge conducted under Sections  
8 3-415 through 3-418 the Department shall do the following:

9 (a) Provide written notice to the facility prior to the  
10 transfer or discharge. The notice shall state the basis for the  
11 order of transfer or discharge and shall inform the facility of  
12 its right to an informal conference prior to transfer or  
13 discharge under this Section, and its right to a subsequent  
14 hearing under Section 3-422. If a facility desires to contest a  
15 nonemergency transfer or discharge, prior to transfer or  
16 discharge it shall, within 4 working days after receipt of the  
17 notice, send a written request for an informal conference to  
18 the Department. The Department shall, within 4 working days  
19 from the receipt of the request, hold an informal conference in  
20 the county in which the facility is located. Following this  
21 conference, the Department may affirm, modify or overrule its  
22 previous decision. Except in an emergency, transfer or  
23 discharge may not begin until the period for requesting a  
24 conference has passed or, if a conference is requested, until

1 after a conference has been held.

2 (b) Provide written notice to any resident to be removed,  
3 to the resident's representative, if any, and to a member of  
4 the resident's family, where practicable, prior to the removal.  
5 The notice shall state the reason for which transfer or  
6 discharge is ordered and shall inform the resident of the  
7 resident's right to challenge the transfer or discharge under  
8 Section 3-422. The Department shall hold an informal conference  
9 with the resident or the resident's representative prior to  
10 transfer or discharge at which the resident or the  
11 representative may present any objections to the proposed  
12 transfer or discharge plan or alternative placement.

13 Section 3-421. Notice of emergency. In any transfer or  
14 discharge conducted under subsection (e) of Section 3-415, the  
15 Department shall notify the facility and any resident to be  
16 removed that an emergency has been found to exist and removal  
17 has been ordered, and shall involve the residents in removal  
18 planning if possible. Following emergency removal, the  
19 Department shall provide written notice to the facility, to the  
20 resident, to the resident's representative, if any, and to a  
21 member of the resident's family, where practicable, of the  
22 basis for the finding that an emergency existed and of the  
23 right to challenge removal under Section 3-422.

24 Section 3-422. Hearing to challenge transfer or discharge.

1 Within 10 days following transfer or discharge, the facility or  
2 any resident transferred or discharged may send a written  
3 request to the Department for a hearing under Section 3-703 to  
4 challenge the transfer or discharge. The Department shall hold  
5 the hearing within 30 days of receipt of the request. The  
6 hearing shall be held at the facility from which the resident  
7 is being transferred or discharged, unless the resident or  
8 resident's representative, requests an alternative hearing  
9 site. If the facility prevails, it may file a claim against the  
10 State under the Court of Claims Act for payments lost less  
11 expenses saved as a result of the transfer or discharge. No  
12 resident transferred or discharged may be held liable for the  
13 charge for care which would have been made had the resident  
14 remained in the facility. If a resident prevails, the resident  
15 may file a claim against the State under the Court of Claims  
16 Act for any excess expenses directly caused by the order to  
17 transfer or discharge. The Department shall assist the resident  
18 in returning to the facility if assistance is requested.

19 Section 3-423. Closure of facility; notice. Any owner of a  
20 facility licensed under this Act shall give 90 days notice  
21 prior to voluntarily closing a facility or closing any part of  
22 a facility, or prior to closing any part of a facility if  
23 closing such part will require the transfer or discharge of  
24 more than 10% of the residents. Such notice shall be given to  
25 the Department, to any resident who must be transferred or

1 discharged, to the resident's representative, and to a member  
2 of the resident's family, where practicable. Notice shall state  
3 the proposed date of closing and the reason for closing. The  
4 facility shall offer to assist the resident in securing an  
5 alternative placement and shall advise the resident on  
6 available alternatives. Where the resident is unable to choose  
7 an alternate placement and is not under guardianship, the  
8 Department shall be notified of the need for relocation  
9 assistance. The facility shall comply with all applicable laws  
10 and regulations until the date of closing, including those  
11 related to transfer or discharge of residents. The Department  
12 may place a relocation team in the facility as provided under  
13 Section 3-419.

14 PART 5. MONITORS AND RECEIVERSHIP

15 Section 3-501. Monitor or receiver for facility; grounds.  
16 The Department may place an employee or agent to serve as a  
17 monitor in a facility or may petition the circuit court for  
18 appointment of a receiver for a facility, or both, when any of  
19 the following conditions exist:

20 (a) The facility is operating without a license;

21 (b) The Department has suspended, revoked or refused to  
22 renew the existing license of the facility;

23 (c) The facility is closing or has informed the Department  
24 that it intends to close and adequate arrangements for

1 relocation of residents have not been made at least 30 days  
2 prior to closure;

3 (d) The Department determines that an emergency exists,  
4 whether or not it has initiated revocation or nonrenewal  
5 procedures, if because of the unwillingness or inability of the  
6 licensee to remedy the emergency the Department believes a  
7 monitor or receiver is necessary; or

8 (e) The Department is notified that the facility is  
9 terminated or will not be renewed for participation in the  
10 federal reimbursement program under either Title XVIII or Title  
11 XIX of the Social Security Act. As used in subsection (d) and  
12 Section 3-503, "emergency" means a threat to the health, safety  
13 or welfare of a resident that the facility is unwilling or  
14 unable to correct.

15 Section 3-502. Placement of monitor by Department. In any  
16 situation described in Section 3-501, the Department may place  
17 a qualified person to act as monitor in the facility. The  
18 monitor shall observe operation of the facility, assist the  
19 facility by advising it on how to comply with the State  
20 regulations, and shall report periodically to the Department on  
21 the operation of the facility.

22 Section 3-503. Emergency; petition for receiver. Where a  
23 resident, a resident's representative or a resident's next of  
24 kin believes that an emergency exists each of them,

1 collectively or separately, may file a verified petition to the  
2 circuit court for the county in which the facility is located  
3 for an order placing the facility under the control of a  
4 receiver.

5 Section 3-504. Hearing on petition for receiver; grounds  
6 for appointment of receiver. The court shall hold a hearing  
7 within 5 days of the filing of the petition. The petition and  
8 notice of the hearing shall be served on the owner,  
9 administrator or designated agent of the facility as provided  
10 under the Civil Practice Law, or the petition and notice of  
11 hearing shall be posted in a conspicuous place in the facility  
12 not later than 3 days before the time specified for the  
13 hearing, unless a different period is fixed by order of the  
14 court. The court shall appoint a receiver for a limited time  
15 period, not to exceed 180 days, if it finds that:

16 (a) The facility is operating without a license;

17 (b) The Department has suspended, revoked or refused to  
18 renew the existing license of a facility;

19 (c) The facility is closing or has informed the Department  
20 that it intends to close and adequate arrangements for  
21 relocation of residents have not been made at least 30 days  
22 prior to closure; or

23 (d) An emergency exists, whether or not the Department has  
24 initiated revocation or nonrenewal procedures, if because of  
25 the unwillingness or inability of the licensee to remedy the

1 emergency the appointment of a receiver is necessary.

2 Section 3-505. Emergency; time for hearing. If a petition  
3 filed under Section 3-503 alleges that the conditions set out  
4 in subsection 3-504 (d) exist within a facility, the court may  
5 set the matter for hearing at the earliest possible time. The  
6 petitioner shall notify the licensee, administrator of the  
7 facility, or registered agent of the licensee prior to the  
8 hearing. Any form of written notice may be used. A receivership  
9 shall not be established ex parte unless the court determines  
10 that the conditions set out in subsection 3-504(d) exist in a  
11 facility; that the licensee cannot be found; and that the  
12 petitioner has exhausted all reasonable means of locating and  
13 notifying the licensee, administrator or registered agent.

14 Section 3-506. Appointment of receiver. The court may  
15 appoint any qualified person as a receiver, except it shall not  
16 appoint any owner or affiliate of the facility which is in  
17 receivership as its receiver. The Department shall maintain a  
18 list of such persons to operate facilities which the court may  
19 consider. The court shall give preference to licensed nursing  
20 home administrators in appointing a receiver.

21 Section 3-507. Health, safety, and welfare of residents.  
22 The receiver shall make provisions for the continued health,  
23 safety and welfare of all residents of the facility.

1 Section 3-508. Receiver's powers and duties. A receiver  
2 appointed under this Act:

3 (a) Shall exercise those powers and shall perform those  
4 duties set out by the court.

5 (b) Shall operate the facility in such a manner as to  
6 assure safety and adequate health care for the residents.

7 (c) Shall have the same rights to possession of the  
8 building in which the facility is located and of all goods and  
9 fixtures in the building at the time the petition for  
10 receivership is filed as the owner would have had if the  
11 receiver had not been appointed, and of all assets of the  
12 facility. The receiver shall take such action as is reasonably  
13 necessary to protect or conserve the assets or property of  
14 which the receiver takes possession, or the proceeds from any  
15 transfer thereof, and may use them only in the performance of  
16 the powers and duties set forth in this Section and by order of  
17 the court.

18 (d) May use the building, fixtures, furnishings and any  
19 accompanying consumable goods in the provision of care and  
20 services to residents and to any other persons receiving  
21 services from the facility at the time the petition for  
22 receivership was filed. The receiver shall collect payments for  
23 all goods and services provided to residents or others during  
24 the period of the receivership at the same rate of payment  
25 charged by the owners at the time the petition for receivership

1 was filed.

2 (e) May correct or eliminate any deficiency in the  
3 structure or furnishings of the facility which endangers the  
4 safety or health of residents while they remain in the  
5 facility, provided the total cost of correction does not exceed  
6 \$3,000. The court may order expenditures for this purpose in  
7 excess of \$3,000 on application from the receiver after notice  
8 to the owner and hearing.

9 (f) May let contracts and hire agents and employees to  
10 carry out the powers and duties of the receiver under this  
11 Section.

12 (g) Except as specified in Section 3-510, shall honor all  
13 leases, mortgages and secured transactions governing the  
14 building in which the facility is located and all goods and  
15 fixtures in the building of which the receiver has taken  
16 possession, but only to the extent of payments which, in the  
17 case of a rental agreement, are for the use of the property  
18 during the period of the receivership, or which, in the case of  
19 a purchase agreement, come due during the period of the  
20 receivership.

21 (h) Shall have full power to direct and manage and to  
22 discharge employees of the facility, subject to any contract  
23 rights they may have. The receiver shall pay employees at the  
24 same rate of compensation, including benefits, that the  
25 employees would have received from the owner. Receivership does  
26 not relieve the owner of any obligation to employees not

1 carried out by the receiver.

2 (i) Shall, if any resident is transferred or discharged,  
3 follow the procedures set forth in Part 4 of this Article.

4 (j) Shall be entitled to and shall take possession of all  
5 property or assets of residents which are in the possession of  
6 a facility or its owner. The receiver shall preserve all  
7 property, assets and records of residents of which the receiver  
8 takes possession and shall provide for the prompt transfer of  
9 the property, assets and records to the new placement of any  
10 transferred resident.

11 (k) Shall report to the court on any actions he has taken  
12 to bring the facility into compliance with this Act or with  
13 Title XVIII or XIX of the Social Security Act that he believes  
14 should be continued when the receivership is terminated in  
15 order to protect the health, safety or welfare of the  
16 residents.

17 Section 3-509. Payment for goods or services provided by  
18 receiver.

19 (a) A person who is served with notice of an order of the  
20 court appointing a receiver and of the receiver's name and  
21 address shall be liable to pay the receiver for any goods or  
22 services provided by the receiver after the date of the order  
23 if the person would have been liable for the goods or services  
24 as supplied by the owner. The receiver shall give a receipt for  
25 each payment and shall keep a copy of each receipt on file. The

1 receiver shall deposit amounts received in a separate account  
2 and shall use this account for all disbursements.

3 (b) The receiver may bring an action to enforce the  
4 liability created by subsection (a) of this Section.

5 (c) A payment to the receiver of any sum owing to the  
6 facility or its owner shall discharge any obligation to the  
7 facility to the extent of the payment.

8 Section 3-510. Receiver's avoidance of obligations;  
9 reasonable rental, price, or rate of interest to be paid by  
10 receiver.

11 (a) A receiver may petition the court that he not be  
12 required to honor any lease, mortgage, secured transaction or  
13 other wholly or partially executory contract entered into by  
14 the owner of the facility if the rent, price or rate of  
15 interest required to be paid under the agreement was  
16 substantially in excess of a reasonable rent, price or rate of  
17 interest at the time the contract was entered into, or if any  
18 material provision of the agreement was unreasonable.

19 (b) If the receiver is in possession of real estate or  
20 goods subject to a lease, mortgage or security interest which  
21 the receiver has obtained a court order to avoid under  
22 subsection (a) of this Section, and if the real estate or goods  
23 are necessary for the continued operation of the facility under  
24 this Section, the receiver may apply to the court to set a  
25 reasonable rental, price or rate of interest to be paid by the

1 receiver during the duration of the receivership. The court  
2 shall hold a hearing on the application within 15 days. The  
3 receiver shall send notice of the application to any known  
4 persons who own the property involved at least 10 days prior to  
5 the hearing. Payment by the receiver of the amount determined  
6 by the court to be reasonable is a defense to any action  
7 against the receiver for payment or for possession of the goods  
8 or real estate subject to the lease, security interest or  
9 mortgage involved by any person who received such notice, but  
10 the payment does not relieve the owner of the facility of any  
11 liability for the difference between the amount paid by the  
12 receiver and the amount due under the original lease, security  
13 interest or mortgage involved.

14 Section 3-511. Insufficient funds collected; reimbursement  
15 of receiver by Department. If funds collected under Sections  
16 3-508 and 3-509 are insufficient to meet the expenses of  
17 performing the powers and duties conferred on the receiver, or  
18 if there are insufficient funds on hand to meet those expenses,  
19 the Department may reimburse the receiver for those expenses  
20 from funds appropriated for its ordinary and contingent  
21 expenses by the General Assembly after funds contained in the  
22 Long Term Care Monitor/Receiver Fund have been exhausted.

23 Section 3-512. Receiver's compensation. The court shall  
24 set the compensation of the receiver, which will be considered

1 a necessary expense of a receivership under Section 3-516.

2 Section 3-513. Action against receiver.

3 (a) In any action or special proceeding brought against a  
4 receiver in the receiver's official capacity for acts committed  
5 while carrying out powers and duties under this Article, the  
6 receiver shall be considered a public employee under the Local  
7 Governmental and Governmental Employees Tort Immunity Act, as  
8 now or hereafter amended.

9 (b) A receiver may be held liable in a personal capacity  
10 only for the receiver's own gross negligence, intentional acts  
11 or breach of fiduciary duty.

12 (c) The court may require a receiver to post a bond.

13 Section 3-514. License to facility in receivership. Other  
14 provisions of this Act notwithstanding, the Department may  
15 issue a license to a facility placed in receivership. The  
16 duration of a license issued under this Section is limited to  
17 the duration of the receivership.

18 Section 3-515. Termination of receivership. The court may  
19 terminate a receivership:

20 (a) If the time period specified in the order appointing  
21 the receiver elapses and is not extended;

22 (b) If the court determines that the receivership is no  
23 longer necessary because the conditions which gave rise to the

1 receivership no longer exist; or the Department grants the  
2 facility a new license, whether the structure of the facility,  
3 the right to operate the facility, or the land on which it is  
4 located is under the same or different ownership; or

5 (c) If all of the residents in the facility have been  
6 transferred or discharged. Before terminating a receivership,  
7 the court may order the Department to require any licensee to  
8 comply with the recommendations of the receiver made under  
9 subsection (k) of Section 3-508. A licensee may petition the  
10 court to be relieved of this requirement.

11 Section 3-516. Accounting by receiver; Department's lien.

12 (a) Within 30 days after termination, the receiver shall  
13 give the court a complete accounting of all property of which  
14 the receiver has taken possession, of all funds collected, and  
15 of the expenses of the receivership.

16 (b) If the operating funds collected by the receiver under  
17 Sections 3-508 and 3-509 exceed the reasonable expenses of the  
18 receivership, the court shall order payment of the surplus to  
19 the owner, after reimbursement of funds drawn from the  
20 contingency fund under Section 3-511. If the operating funds  
21 are insufficient to cover the reasonable expenses of the  
22 receivership, the owner shall be liable for the deficiency.  
23 Payment recovered from the owner shall be used to reimburse the  
24 contingency fund for amounts drawn by the receiver under  
25 Section 3-511.

1 (c) The Department shall have a lien for any payment made  
2 under Section 3-511 upon any beneficial interest, direct or  
3 indirect, of any owner in the following property:

4 (1) The building in which the facility is located;

5 (2) Any fixtures, equipment or goods used in the  
6 operation of the facility;

7 (3) The land on which the facility is located; or

8 (4) The proceeds from any conveyance of property  
9 described in subparagraphs (1), (2) or (3) above, made by  
10 the owner within one year prior to the filing of the  
11 petition for receivership.

12 (d) The lien provided by this Section is prior to any lien  
13 or other interest which originates subsequent to the filing of  
14 a petition for receivership under this Article, except for a  
15 construction or mechanic's lien arising out of work performed  
16 with the express consent of the receiver.

17 (e) The receiver shall, within 60 days after termination of  
18 the receivership, file a notice of any lien created under this  
19 Section. If the lien is on real property, the notice shall be  
20 filed with the recorder. If the lien is on personal property,  
21 the lien shall be filed with the Secretary of State. The notice  
22 shall specify the name of the person against whom the lien is  
23 claimed, the name of the receiver, the dates of the petition  
24 for receivership and the termination of receivership, a  
25 description of the property involved and the amount claimed. No  
26 lien shall exist under this Article against any person, on any

1 property, or for any amount not specified in the notice filed  
2 under this subsection (e).

3 Section 3-517. Civil and criminal liability during  
4 receivership. Nothing in this Act shall be deemed to relieve  
5 any owner, administrator or employee of a facility placed in  
6 receivership of any civil or criminal liability incurred, or  
7 any duty imposed by law, by reason of acts or omissions of the  
8 owner, administrator, or employee prior to the appointment of a  
9 receiver; nor shall anything contained in this Act be construed  
10 to suspend during the receivership any obligation of the owner,  
11 administrator, or employee for payment of taxes or other  
12 operating and maintenance expenses of the facility nor of the  
13 owner, administrator, employee or any other person for the  
14 payment of mortgages or liens. The owner shall retain the right  
15 to sell or mortgage any facility under receivership, subject to  
16 approval of the court which ordered the receivership

17 PART 6. DUTIES

18 Section 3-601. Liability for injury to resident. The owner  
19 and licensee are liable to a resident for any intentional or  
20 negligent act or omission of their agents or employees which  
21 injures the resident.

22 Section 3-602. Damages for violation of resident's rights.

1 The licensee shall pay the actual damages and costs and  
2 attorney's fees to a facility resident whose rights, as  
3 specified in Part 1 of Article II of this Act, are violated.

4 Section 3-603. Action by resident. A resident may maintain  
5 an action under this Act for any other type of relief,  
6 including injunctive and declaratory relief, permitted by law.

7 Section 3-604. Class action; remedies cumulative. Any  
8 damages recoverable under Sections 3-601 through 3-607,  
9 including minimum damages as provided by these Sections, may be  
10 recovered in any action which a court may authorize to be  
11 brought as a class action pursuant to the Civil Practice Law.  
12 The remedies provided in Sections 3-601 through 3-607, are in  
13 addition to and cumulative with any other legal remedies  
14 available to a resident. Exhaustion of any available  
15 administrative remedies shall not be required prior to  
16 commencement of suit hereunder.

17 Section 3-605. Amount of damages; no effect on medical  
18 assistance eligibility. The amount of damages recovered by a  
19 resident in an action brought under Sections 3-601 through  
20 3-607 shall be exempt for purposes of determining initial or  
21 continuing eligibility for medical assistance under the  
22 Illinois Public Aid Code, as now or hereafter amended, and  
23 shall neither be taken into consideration nor required to be

1 applied toward the payment or partial payment of the cost of  
2 medical care or services available under the Illinois Public  
3 Aid Code.

4 Section 3-606. Waiver of resident's right to bring action  
5 prohibited. Any waiver by a resident or his legal  
6 representative of the right to commence an action under  
7 Sections 3-601 through 3-607, whether oral or in writing, shall  
8 be null and void, and without legal force or effect.

9 Section 3-607. Trial by jury. Any party to an action  
10 brought under Sections 3-601 through 3-607 shall be entitled to  
11 a trial by jury and any waiver of the right to a trial by a  
12 jury, whether oral or in writing, prior to the commencement of  
13 an action, shall be null and void, and without legal force or  
14 effect.

15 Section 3-608. Retaliation against resident prohibited. A  
16 licensee or its agents or employees shall not transfer,  
17 discharge, evict, harass, dismiss, or retaliate against a  
18 resident, a resident's representative, or an employee or agent  
19 who makes a report under Section 2-107, brings or testifies in  
20 an action under Sections 3-601 through 3-607, or files a  
21 complaint under Section 3-702, because of the report,  
22 testimony, or complaint.

1           Section 3-609. Immunity from liability for making report.  
2           Any person, institution or agency, under this Act,  
3           participating in good faith in the making of a report, or in  
4           the investigation of such a report shall not be deemed to have  
5           violated any privileged communication and shall have immunity  
6           from any liability, civil, criminal or any other proceedings,  
7           civil or criminal as a consequence of making such report. The  
8           good faith of any persons required to report, or permitted to  
9           report, cases of suspected resident abuse or neglect under this  
10          Act, shall be presumed.

11          Section 3-610. Duty to report violations.

12          (a) A facility employee or agent who becomes aware of abuse  
13          or neglect of a resident prohibited by Section 2-107 shall  
14          immediately report the matter to the Department and to the  
15          facility administrator. A facility administrator who becomes  
16          aware of abuse or neglect of a resident prohibited by Section  
17          2-107 shall immediately report the matter by telephone and in  
18          writing to the resident's representative, and to the  
19          Department. Any person may report a violation of Section 2-107  
20          to the Department.

21          (b) A facility employee or agent who becomes aware of  
22          another facility employee or agent's theft or misappropriation  
23          of a resident's property must immediately report the matter to  
24          the facility administrator. A facility administrator who  
25          becomes aware of a facility employee or agent's theft or

1 misappropriation of a resident's property must immediately  
2 report the matter by telephone and in writing to the resident's  
3 representative, to the Department, and to the local law  
4 enforcement agency. Neither a licensee nor its employees or  
5 agents may dismiss or otherwise retaliate against a facility  
6 employee or agent who reports the theft or misappropriation of  
7 a resident's property under this subsection.

8       Section 3-611. Employee as perpetrator of abuse. When an  
9 investigation of a report of suspected abuse of a recipient  
10 indicates, based upon credible evidence, that an employee of a  
11 long term care facility is the perpetrator of the abuse, that  
12 employee shall immediately be barred from any further contact  
13 with residents of the facility, pending the outcome of any  
14 further investigation, prosecution or disciplinary action  
15 against the employee.

16       Section 3-612. Resident as perpetrator of abuse. When an  
17 investigation of a report of suspected abuse of a resident  
18 indicates, based upon credible evidence, that another resident  
19 of the long term care facility is the perpetrator of the abuse,  
20 that resident's condition shall be immediately evaluated to  
21 determine the most suitable therapy and placement for the  
22 resident, considering the safety of that resident as well as  
23 the safety of other residents and employees of the facility.

## 1                   PART 7. COMPLAINT, HEARING, AND APPEAL

2           Section 3-701. Public nuisance; action for injunction. The  
3 operation or maintenance of a facility in violation of this  
4 Act, or of the rules and regulations promulgated by the  
5 Department, is declared a public nuisance inimical to the  
6 public welfare. The Director in the name of the people of the  
7 State, through the Attorney General, or the State's Attorney of  
8 the county in which the facility is located, or in respect to  
9 any city, village or incorporated town which provides for the  
10 licensing and regulation of any or all such facilities, the  
11 Director or the mayor or president of the Board of Trustees, as  
12 the case may require, of the city, village or incorporated  
13 town, in the name of the people of the State, through the  
14 Attorney General or State's attorney of the county in which the  
15 facility is located, may, in addition to other remedies herein  
16 provided, bring action for an injunction to restrain such  
17 violation or to enjoin the future operation or maintenance of  
18 any such facility.

19           Section 3-702. Request for investigation of violation.

20           (a) A person who believes that this Act or a rule  
21 promulgated under this Act may have been violated may request  
22 an investigation. The request may be submitted to the  
23 Department in writing, by telephone, or by personal visit. An  
24 oral complaint shall be reduced to writing by the Department.

1 The Department shall request information identifying the  
2 complainant, including the name, address and telephone number,  
3 to help enable appropriate follow up. The Department shall act  
4 on such complaints via on site visits or other methods deemed  
5 appropriate to handle the complaints with or without such  
6 identifying information, as otherwise provided under this  
7 Section. The complainant shall be informed that compliance with  
8 such request is not required to satisfy the procedures for  
9 filing a complaint under this Act.

10 (b) The substance of the complaint shall be provided in  
11 writing to the licensee, owner or administrator no earlier than  
12 at the commencement of an on site inspection of the facility  
13 which takes place pursuant to the complaint.

14 (c) The Department shall not disclose the name of the  
15 complainant unless the complainant consents in writing to the  
16 disclosure or the investigation results in a judicial  
17 proceeding, or unless disclosure is essential to the  
18 investigation. The complainant shall be given the opportunity  
19 to withdraw the complaint before disclosure. Upon the request  
20 of the complainant, the Department may permit the complainant  
21 or a representative of the complainant to accompany the person  
22 making the on site inspection of the facility.

23 (d) Upon receipt of a complaint, the Department shall  
24 determine whether this Act or a rule promulgated under this Act  
25 has been or is being violated. The Department shall investigate  
26 all complaints alleging abuse or neglect within 7 days after

1 the receipt of the complaint except that complaints of abuse or  
2 neglect which indicate that a resident's life or safety is in  
3 imminent danger shall be investigated within 24 hours after  
4 receipt of the complaint. All other complaints shall be  
5 investigated within 30 days after the receipt of the complaint.  
6 The Department employees investigating a complaint shall  
7 conduct a brief, informal exit conference with the facility to  
8 alert its administration of any suspected serious deficiency  
9 that poses a direct threat to the health, safety or welfare of  
10 a resident to enable an immediate correction for the  
11 alleviation or elimination of such threat. Such information and  
12 findings discussed in the brief exit conference shall become a  
13 part of the investigating record but shall not in any way  
14 constitute an official or final notice of violation as provided  
15 under Section 3-301. All complaints shall be classified as "an  
16 invalid report", "a valid report", or "an undetermined report".  
17 For any complaint classified as "a valid report", the  
18 Department must determine within 30 working days if any rule or  
19 provision of this Act has been or is being violated.

20 (d-1) The Department shall, whenever possible, combine an  
21 on site investigation of a complaint in a facility with other  
22 inspections in order to avoid duplication of inspections.

23 (e) In all cases, the Department shall inform the  
24 complainant of its findings within 10 days of its determination  
25 unless otherwise indicated by the complainant, and the  
26 complainant may direct the Department to send a copy of such

1 findings to another person. The Department's findings may  
2 include comments or documentation provided by either the  
3 complainant or the licensee pertaining to the complaint. The  
4 Department shall also notify the facility of such findings  
5 within 10 days of the determination, but the name of the  
6 complainant or residents shall not be disclosed in this notice  
7 to the facility. The notice of such findings shall include a  
8 copy of the written determination; the correction order, if  
9 any; the warning notice, if any; the inspection report; or the  
10 State licensure form on which the violation is listed.

11 (f) A written determination, correction order, or warning  
12 notice concerning a complaint, together with the facility's  
13 response, shall be available for public inspection, but the  
14 name of the complainant or resident shall not be disclosed  
15 without his consent.

16 (g) A complainant who is dissatisfied with the  
17 determination or investigation by the Department may request a  
18 hearing under Section 3-703. The facility shall be given notice  
19 of any such hearing and may participate in the hearing as a  
20 party. If a facility requests a hearing under Section 3-703  
21 which concerns a matter covered by a complaint, the complainant  
22 shall be given notice and may participate in the hearing as a  
23 party. A request for a hearing by either a complainant or a  
24 facility shall be submitted in writing to the Department within  
25 30 days after the mailing of the Department's findings as  
26 described in subsection (e) of this Section. Upon receipt of

1 the request the Department shall conduct a hearing as provided  
2 under Section 3-703.

3 (h) Any person who knowingly transmits a false report to  
4 the Department commits the offense of disorderly conduct under  
5 subsection (a) (8) of Section 26-1 of the Criminal Code of 1961.

6 Section 3-703. Hearing to contest decision; applicable  
7 provisions. Any person requesting a hearing pursuant to  
8 Sections 2-110, 3-115, 3-118, 3-119, 3-301, 3-303, 3-309,  
9 3-410, 3-422 or 3-702 to contest a decision rendered in a  
10 particular case may have such decision reviewed in accordance  
11 with Sections 3-703 through 3-712.

12 Section 3-704. Hearing; notice; commencement. A request  
13 for a hearing by aggrieved persons shall be taken to the  
14 Department as follows:

15 (a) Upon the receipt of a request in writing for a hearing,  
16 the Director or a person designated in writing by the Director  
17 to act as a hearing officer shall conduct a hearing to review  
18 the decision.

19 (b) Before the hearing is held notice of the hearing shall  
20 be sent by the Department to the person making the request for  
21 the hearing and to the person making the decision which is  
22 being reviewed. In the notice the Department shall specify the  
23 date, time and place of the hearing which shall be held not  
24 less than 10 days after the notice is mailed or delivered. The

1 notice shall designate the decision being reviewed. The notice  
2 may be served by delivering it personally to the parties or  
3 their representatives or by mailing it by certified mail to the  
4 parties' addresses.

5 (c) The Department shall commence the hearing within 30  
6 days of the receipt of request for hearing. The hearing shall  
7 proceed as expeditiously as practicable, but in all cases shall  
8 conclude within 90 days of commencement.

9 Section 3-705. Subpoenas. The Director or hearing officer  
10 may compel by subpoena or subpoena duces tecum the attendance  
11 and testimony of witnesses and the production of books and  
12 papers, and administer oaths to witnesses.

13 Section 3-706. Appearance at hearing; depositions; record.  
14 The Director or hearing officer shall permit any party to  
15 appear in person and to be represented by counsel at the  
16 hearing, at which time the applicant or licensee shall be  
17 afforded an opportunity to present all relevant matter in  
18 support of his position. In the event of the inability of any  
19 party or the Department to procure the attendance of witnesses  
20 to give testimony or produce books and papers, any party or the  
21 Department may take the deposition of witnesses in accordance  
22 with the provisions of the laws of this State. All testimony  
23 taken at a hearing shall be reduced to writing, and all such  
24 testimony and other evidence introduced at the hearing shall be

1 a part of the record of the hearing.

2 Section 3-707. Findings of fact; decision. The Director or  
3 hearing officer shall make findings of fact in such hearing,  
4 and the Director shall render his decision within 30 days after  
5 the termination of the hearing, unless additional time not to  
6 exceed 90 days is required by him for a proper disposition of  
7 the matter. When the hearing has been conducted by a hearing  
8 officer, the Director shall review the record and findings of  
9 fact before rendering a decision. All decisions rendered by the  
10 Director shall be binding upon and complied with by the  
11 Department, the facility or the persons involved in the  
12 hearing, as appropriate to each case.

13 Section 3-708. Rules of evidence and procedure. The  
14 Director or hearing officer shall not be bound by common law or  
15 statutory rules of evidence, or by technical or formal rules of  
16 procedure, but shall conduct hearings in the manner best  
17 calculated to result in substantial justice.

18 Section 3-709. Service of subpoenas; witness fees. All  
19 subpoenas issued by the Director or hearing officer may be  
20 served as provided for in civil actions. The fees of witnesses  
21 for attendance and travel shall be the same as the fees for  
22 witnesses before the circuit court and shall be paid by the  
23 party to such proceeding at whose request the subpoena is

1 issued. If such subpoena is issued at the request of the  
2 Department or by a person proceeding in forma pauperis the  
3 witness fee shall be paid by the Department as an  
4 administrative expense.

5 Section 3-710. Compelling obedience to subpoena. In cases  
6 of refusal of a witness to attend or testify or to produce  
7 books or papers, concerning any matter upon which he might be  
8 lawfully examined, the circuit court of the county wherein the  
9 hearing is held, upon application of any party to the  
10 proceeding, may compel obedience by a proceeding for contempt  
11 as in cases of a like refusal to obey a similar order of the  
12 court.

13 Section 3-711. Record of hearing; transcript. The  
14 Department, at its expense, shall provide a stenographer to  
15 take the testimony, or otherwise record the testimony, and  
16 preserve a record of all proceedings under this Section. The  
17 notice of hearing, the complaint and all other documents in the  
18 nature of pleadings and written motions filed in the  
19 proceedings, the transcript of testimony, and the findings and  
20 decision shall be the record of the proceedings. The Department  
21 shall furnish a transcript of such record to any person  
22 interested in such hearing upon payment therefor of 70 cents  
23 per page for each original transcript and 25 cents per page for  
24 each certified copy thereof. However, the charge for any part

1 of such transcript ordered and paid for previous to the writing  
2 of the original record shall be 25 cents per page.

3 Section 3-712. Certification of record; fee. The  
4 Department shall not be required to certify any record or file  
5 any answer or otherwise appear in any proceeding for judicial  
6 review under Section 3-713 of this Act unless the party filing  
7 the complaint deposits with the clerk of the court the sum of  
8 95 cents per page, representing the costs of such  
9 certification. Failure on the part of the plaintiff to make  
10 such deposit shall be grounds for dismissal of the action;  
11 provided, however, that persons proceeding in forma pauperis  
12 with the approval of the circuit court shall not be required to  
13 pay these fees.

14 Section 3-713. Judicial review; stay of enforcement of  
15 Department's decision.

16 (a) Final administrative decisions after hearing shall be  
17 subject to judicial review exclusively as provided in the  
18 Administrative Review Law, as now or hereafter amended, except  
19 that any petition for judicial review of Department action  
20 under this Act shall be filed within 15 days after receipt of  
21 notice of the final agency determination. The term  
22 "administrative decision" has the meaning ascribed to it in  
23 Section 3-101 of the Code of Civil Procedure.

24 (b) The court may stay enforcement of the Department's

1 final decision or toll the continuing accrual of a penalty  
2 under Section 3-305 if a showing is made that there is a  
3 substantial probability that the party seeking review will  
4 prevail on the merits and will suffer irreparable harm if a  
5 stay is not granted, and that the facility will meet the  
6 requirements of this Act and the rules promulgated under this  
7 Act during such stay. Where a stay is granted the court may  
8 impose such conditions on the granting of the stay as may be  
9 necessary to safeguard the lives, health, rights, safety and  
10 welfare of residents, and to assure compliance by the facility  
11 with the requirements of this Act, including an order for  
12 transfer or discharge of residents under Sections 3-401 through  
13 3-423 or for appointment of a receiver under Sections 3-501  
14 through 3-517.

15 (c) Actions brought under this Act shall be set for trial  
16 at the earliest possible date and shall take precedence on the  
17 court calendar over all other cases except matters to which  
18 equal or superior precedence is specifically granted by law.

19 Section 3-714. Remedies cumulative. The remedies provided  
20 by this Act are cumulative and shall not be construed as  
21 restricting any party from seeking any remedy, provisional or  
22 otherwise, provided by law for the benefit of the party, from  
23 obtaining additional relief based upon the same facts.

1           Section 3-801. Rules and regulations. The Department shall  
2 have the power to adopt rules and regulations to carry out the  
3 purpose of this Act.

4           Section 3-801.1. Access to records of resident with  
5 developmental disabilities. Notwithstanding the other  
6 provisions of this Act to the contrary, the agency designated  
7 by the Governor under Section 1 of "An Act in relation to the  
8 protection and advocacy of the rights of persons with  
9 developmental disabilities, and amending Acts therein named",  
10 enacted by the 84th General Assembly, shall have access to the  
11 records of a person with developmental disabilities who resides  
12 in a facility, subject to the limitations of this Act. The  
13 agency shall also have access for the purpose of inspection and  
14 copying, to the records of a person with developmental  
15 disabilities who resides in any such facility if (1) a  
16 complaint is received by such agency from or on behalf of the  
17 person with a developmental disability, and (2) such person  
18 does not have a guardian or the State or the designee of the  
19 State is the guardian of such person. The designated agency  
20 shall provide written notice to the person with developmental  
21 disabilities and the State guardian of the nature of the  
22 complaint based upon which the designated agency has gained  
23 access to the records. No record or the contents of any record  
24 shall be redisclosed by the designated agency unless the person

1 with developmental disabilities and the State guardian are  
2 provided 7 days advance written notice, except in emergency  
3 situations, of the designated agency's intent to redisclose  
4 such record, during which time the person with developmental  
5 disabilities or the State guardian may seek to judicially  
6 enjoin the designated agency's redisclosure of such record on  
7 the grounds that such redisclosure is contrary to the interests  
8 of the person with developmental disabilities. If a person with  
9 developmental disabilities resides in such a facility and has a  
10 guardian other than the State or the designee of the State, the  
11 facility director shall disclose the guardian's name, address,  
12 and telephone number to the designated agency at the agency's  
13 request.

14 Upon request, the designated agency shall be entitled to  
15 inspect and copy any records or other materials which may  
16 further the agency's investigation of problems affecting  
17 numbers of persons with developmental disabilities. When  
18 required by law any personally identifiable information of  
19 persons with a developmental disability shall be removed from  
20 the records. However, the designated agency may not inspect or  
21 copy any records or other materials when the removal of  
22 personally identifiable information imposes an unreasonable  
23 burden on the facility. For the purposes of this Section,  
24 "developmental disability" means a severe, chronic disability  
25 of a person which:

26 (A) is attributable to a mental or physical impairment

- 1 or combination of mental and physical impairments;
- 2 (B) is manifested before the person attains age 22;
- 3 (C) is likely to continue indefinitely;
- 4 (D) results in substantial functional limitations in 3  
5 or more of the following areas of major life activity: (i)  
6 self care, (ii) receptive and expressive language, (iii)  
7 learning, (iv) mobility, (v) self direction, (vi) capacity  
8 for independent living, and (vii) economic self  
9 sufficiency; and
- 10 (E) reflects the person's need for combination and  
11 sequence of special, interdisciplinary or generic care,  
12 treatment or other services which are of lifelong or  
13 extended duration and are individually planned and  
14 coordinated.

15 Section 3-802. Illinois Administrative Procedure Act. The  
16 provisions of the Illinois Administrative Procedure Act are  
17 hereby expressly adopted and shall apply to all administrative  
18 rules and procedures of the Department under this Act.

19 Section 3-803. Treatment by prayer or spiritual means.  
20 Nothing in this Act or the rules and regulations adopted  
21 pursuant thereto shall be construed as authorizing the medical  
22 supervision, regulation, or control of the remedial care or  
23 treatment of residents in any facility conducted for those who  
24 rely upon treatment by prayer or spiritual means in accordance

1 with the creed or tenets of any well recognized church or  
2 religious denomination.

3 Section 3-804. Report to General Assembly. The Department  
4 shall report to the General Assembly by April 1 of each year  
5 upon the performance of its inspection, survey and evaluation  
6 duties under this Act, including the number and needs of the  
7 Department personnel engaged in such activities. The report  
8 shall also describe the Department's actions in enforcement of  
9 this Act, including the number and needs of personnel so  
10 engaged. The report shall also include the number of valid and  
11 invalid complaints filed with the Department within the last  
12 calendar year.

13 ARTICLE 90. AMENDATORY PROVISIONS

14 Section 90-5. The Department of Human Services Act is  
15 amended by changing Section 1-17 as follows:

16 (20 ILCS 1305/1-17)

17 Sec. 1-17. Inspector General.

18 (a) Appointment; powers and duties. The Governor shall  
19 appoint, and the Senate shall confirm, an Inspector General.  
20 The Inspector General shall be appointed for a term of 4 years  
21 and shall function within the Department of Human Services and  
22 report to the Secretary of Human Services and the Governor. The

1 Inspector General shall function independently within the  
2 Department of Human Services with respect to the operations of  
3 the office, including the performance of investigations and  
4 issuance of findings and recommendations. The appropriation  
5 for the Office of Inspector General shall be separate from the  
6 overall appropriation for the Department of Human Services. The  
7 Inspector General shall investigate reports of suspected abuse  
8 or neglect (as those terms are defined by the Department of  
9 Human Services) of patients or residents in any mental health  
10 or developmental disabilities facility operated by the  
11 Department of Human Services and shall have authority to  
12 investigate and take immediate action on reports of abuse or  
13 neglect of recipients, whether patients or residents, in any  
14 mental health or developmental disabilities facility or  
15 program that is licensed or certified by the Department of  
16 Human Services (as successor to the Department of Mental Health  
17 and Developmental Disabilities) or that is funded by the  
18 Department of Human Services (as successor to the Department of  
19 Mental Health and Developmental Disabilities) and is not  
20 licensed or certified by any agency of the State. The Inspector  
21 General shall also have the authority to investigate alleged or  
22 suspected cases of abuse, neglect, and exploitation of adults  
23 with disabilities living in domestic settings in the community  
24 pursuant to the Abuse of Adults with Disabilities Intervention  
25 Act (20 ILCS 2435/). At the specific, written request of an  
26 agency of the State other than the Department of Human Services

1 (as successor to the Department of Mental Health and  
2 Developmental Disabilities), the Inspector General may  
3 cooperate in investigating reports of abuse and neglect of  
4 persons with mental illness or persons with developmental  
5 disabilities. The Inspector General shall have no supervision  
6 over or involvement in routine, programmatic, licensure, or  
7 certification operations of the Department of Human Services or  
8 any of its funded agencies.

9 The Inspector General shall promulgate rules establishing  
10 minimum requirements for reporting allegations of abuse and  
11 neglect and initiating, conducting, and completing  
12 investigations. The promulgated rules shall clearly set forth  
13 that in instances where 2 or more State agencies could  
14 investigate an allegation of abuse or neglect, the Inspector  
15 General shall not conduct an investigation that is redundant to  
16 an investigation conducted by another State agency. The rules  
17 shall establish criteria for determining, based upon the nature  
18 of the allegation, the appropriate method of investigation,  
19 which may include, but need not be limited to, site visits,  
20 telephone contacts, or requests for written responses from  
21 agencies. The rules shall also clarify how the Office of the  
22 Inspector General shall interact with the licensing unit of the  
23 Department of Human Services in investigations of allegations  
24 of abuse or neglect. Any allegations or investigations of  
25 reports made pursuant to this Act shall remain confidential  
26 until a final report is completed. The resident or patient who

1 allegedly was abused or neglected and his or her legal guardian  
2 shall be informed by the facility or agency of the report of  
3 alleged abuse or neglect. Final reports regarding  
4 unsubstantiated or unfounded allegations shall remain  
5 confidential, except that final reports may be disclosed  
6 pursuant to Section 6 of the Abused and Neglected Long Term  
7 Care Facility Residents Reporting Act.

8 For purposes of this Section, "required reporter" means a  
9 person who suspects, witnesses, or is informed of an allegation  
10 of abuse and neglect at a State-operated facility or a  
11 community agency and who is either: (i) a person employed at a  
12 State-operated facility or a community agency on or off site  
13 who is providing or monitoring services to an individual or  
14 individuals or is providing services to the State-operated  
15 facility or the community agency; or (ii) any person or  
16 contractual agent of the Department of Human Services involved  
17 in providing, monitoring, or administering mental health or  
18 developmental services, including, but not limited to, payroll  
19 personnel, contractors, subcontractors, and volunteers. A  
20 required reporter shall report the allegation of abuse or  
21 neglect, or cause a report to be made, to the Office of the  
22 Inspector General (OIG) Hotline no later than 4 hours after the  
23 initial discovery of the incident of alleged abuse or neglect.  
24 A required reporter as defined in this paragraph who willfully  
25 fails to comply with the reporting requirement is guilty of a  
26 Class A misdemeanor.

1 For purposes of this Section, "State-operated facility"  
2 means a mental health facility or a developmental disability  
3 facility as defined in Sections 1-114 and 1-107 of the Mental  
4 Health and Developmental Disabilities Code.

5 For purposes of this Section, "community agency" or  
6 "agency" means any community entity or program providing mental  
7 health or developmental disabilities services that is  
8 licensed, certified, or funded by the Department of Human  
9 Services and is not licensed or certified by an other human  
10 services agency of the State (for example, the Department of  
11 Public Health, the Department of Children and Family Services,  
12 or the Department of Healthcare and Family Services).

13 When the Office of the Inspector General has substantiated  
14 a case of abuse or neglect, the Inspector General shall include  
15 in the final report any mitigating or aggravating circumstances  
16 that were identified during the investigation. Upon  
17 determination that a report of neglect is substantiated, the  
18 Inspector General shall then determine whether such neglect  
19 rises to the level of egregious neglect.

20 (b) Department of State Police. The Inspector General  
21 shall, within 24 hours after determining that a reported  
22 allegation of suspected abuse or neglect indicates that any  
23 possible criminal act has been committed or that special  
24 expertise is required in the investigation, immediately notify  
25 the Department of State Police or the appropriate law  
26 enforcement entity. The Department of State Police shall

1 investigate any report from a State-operated facility  
2 indicating a possible murder, rape, or other felony. All  
3 investigations conducted by the Inspector General shall be  
4 conducted in a manner designed to ensure the preservation of  
5 evidence for possible use in a criminal prosecution.

6 (b-5) Preliminary report of investigation; facility or  
7 agency response. The Inspector General shall make a  
8 determination to accept or reject a preliminary report of the  
9 investigation of alleged abuse or neglect based on established  
10 investigative procedures. Notice of the Inspector General's  
11 determination must be given to the person who claims to be the  
12 victim of the abuse or neglect, to the person or persons  
13 alleged to have been responsible for abuse or neglect, and to  
14 the facility or agency. The facility or agency or the person or  
15 persons alleged to have been responsible for the abuse or  
16 neglect and the person who claims to be the victim of the abuse  
17 or neglect may request clarification or reconsideration based  
18 on additional information. For cases where the allegation of  
19 abuse or neglect is substantiated, the Inspector General shall  
20 require the facility or agency to submit a written response.  
21 The written response from a facility or agency shall address in  
22 a concise and reasoned manner the actions that the agency or  
23 facility will take or has taken to protect the resident or  
24 patient from abuse or neglect, prevent reoccurrences, and  
25 eliminate problems identified and shall include implementation  
26 and completion dates for all such action.

1 (c) Inspector General's report; facility's or agency's  
2 implementation reports. The Inspector General shall, within 10  
3 calendar days after the transmittal date of a completed  
4 investigation where abuse or neglect is substantiated or  
5 administrative action is recommended, provide a complete  
6 report on the case to the Secretary of Human Services and to  
7 the agency in which the abuse or neglect is alleged to have  
8 happened. The complete report shall include a written response  
9 from the agency or facility operated by the State to the  
10 Inspector General that addresses in a concise and reasoned  
11 manner the actions that the agency or facility will take or has  
12 taken to protect the resident or patient from abuse or neglect,  
13 prevent reoccurrences, and eliminate problems identified and  
14 shall include implementation and completion dates for all such  
15 action. The Secretary of Human Services shall accept or reject  
16 the response and establish how the Department will determine  
17 whether the facility or program followed the approved response.  
18 The Secretary may require Department personnel to visit the  
19 facility or agency for training, technical assistance,  
20 programmatic, licensure, or certification purposes.  
21 Administrative action, including sanctions, may be applied  
22 should the Secretary reject the response or should the facility  
23 or agency fail to follow the approved response. Within 30 days  
24 after the Secretary has approved a response, the facility or  
25 agency making the response shall provide an implementation  
26 report to the Inspector General on the status of the corrective

1 action implemented. Within 60 days after the Secretary has  
2 approved the response, the facility or agency shall send notice  
3 of the completion of the corrective action or shall send an  
4 updated implementation report. The facility or agency shall  
5 continue sending updated implementation reports every 60 days  
6 until the facility or agency sends a notice of the completion  
7 of the corrective action. The Inspector General shall review  
8 any implementation plan that takes more than 120 days. The  
9 Inspector General shall monitor compliance through a random  
10 review of completed corrective actions. This monitoring may  
11 include, but need not be limited to, site visits, telephone  
12 contacts, or requests for written documentation from the  
13 facility or agency to determine whether the facility or agency  
14 is in compliance with the approved response. The facility or  
15 agency shall inform the resident or patient and the legal  
16 guardian whether the reported allegation was substantiated,  
17 unsubstantiated, or unfounded. There shall be an appeals  
18 process for any person or agency that is subject to any action  
19 based on a recommendation or recommendations.

20 (d) Sanctions. The Inspector General may recommend to the  
21 Departments of Public Health and Human Services sanctions to be  
22 imposed against mental health and developmental disabilities  
23 facilities under the jurisdiction of the Department of Human  
24 Services for the protection of residents, including  
25 appointment of on-site monitors or receivers, transfer or  
26 relocation of residents, and closure of units. The Inspector

1 General may seek the assistance of the Attorney General or any  
2 of the several State's Attorneys in imposing such sanctions.  
3 Whenever the Inspector General issues any recommendations to  
4 the Secretary of Human Services, the Secretary shall provide a  
5 written response.

6 (e) Training programs. The Inspector General shall  
7 establish and conduct periodic training programs for  
8 Department of Human Services employees and community agency  
9 employees concerning the prevention and reporting of neglect  
10 and abuse.

11 (f) Access to facilities. The Inspector General shall at  
12 all times be granted access to any mental health or  
13 developmental disabilities facility operated by the Department  
14 of Human Services, shall establish and conduct unannounced site  
15 visits to those facilities at least once annually, and shall be  
16 granted access, for the purpose of investigating a report of  
17 abuse or neglect, to the records of the Department of Human  
18 Services and to any facility or program funded by the  
19 Department of Human Services that is subject under the  
20 provisions of this Section to investigation by the Inspector  
21 General for a report of abuse or neglect.

22 (g) Other investigations. Nothing in this Section shall  
23 limit investigations by the Department of Human Services that  
24 may otherwise be required by law or that may be necessary in  
25 that Department's capacity as the central administrative  
26 authority responsible for the operation of State mental health

1 and developmental disability facilities.

2 (g-5) Health care worker registry. After notice and an  
3 opportunity for a hearing that is separate and distinct from  
4 the Office of the Inspector General's appeals process as  
5 implemented under subsection (c) of this Section, the Inspector  
6 General shall report to the Department of Public Health's  
7 health care worker registry under Section 3-206.01 of the  
8 Nursing Home Care Act or Section 3-206.01 of the MR/DD  
9 Community Care Act the identity of individuals against whom  
10 there has been a substantiated finding of physical or sexual  
11 abuse or egregious neglect of a service recipient.

12 Nothing in this subsection shall diminish or impair the  
13 rights of a person who is a member of a collective bargaining  
14 unit pursuant to the Illinois Public Labor Relations Act or  
15 pursuant to any federal labor statute. An individual who is a  
16 member of a collective bargaining unit as described above shall  
17 not be reported to the Department of Public Health's health  
18 care worker registry until the exhaustion of that individual's  
19 grievance and arbitration rights, or until 3 months after the  
20 initiation of the grievance process, whichever occurs first,  
21 provided that the Department of Human Services' hearing under  
22 this subsection regarding the reporting of an individual to the  
23 Department of Public Health's health care worker registry has  
24 concluded. Notwithstanding anything hereinafter or previously  
25 provided, if an action taken by an employer against an  
26 individual as a result of the circumstances that led to a

1 finding of physical or sexual abuse or egregious neglect is  
2 later overturned under a grievance or arbitration procedure  
3 provided for in Section 8 of the Illinois Public Labor  
4 Relations Act or under a collective bargaining agreement, the  
5 report must be removed from the registry.

6 The Department of Human Services shall promulgate or amend  
7 rules as necessary or appropriate to establish procedures for  
8 reporting to the registry, including the definition of  
9 egregious neglect, procedures for notice to the individual and  
10 victim, appeal and hearing procedures, and petition for removal  
11 of the report from the registry. The portion of the rules  
12 pertaining to hearings shall provide that, at the hearing, both  
13 parties may present written and oral evidence. The Department  
14 shall be required to establish by a preponderance of the  
15 evidence that the Office of the Inspector General's finding of  
16 physical or sexual abuse or egregious neglect warrants  
17 reporting to the Department of Public Health's health care  
18 worker registry under Section 3-206.01 of the Nursing Home Care  
19 Act or Section 3-206.01 of the MR/DD Community Care Act.

20 Notice to the individual shall include a clear and concise  
21 statement of the grounds on which the report to the registry is  
22 based and notice of the opportunity for a hearing to contest  
23 the report. The Department of Human Services shall provide the  
24 notice by certified mail to the last known address of the  
25 individual. The notice shall give the individual an opportunity  
26 to contest the report in a hearing before the Department of

1 Human Services or to submit a written response to the findings  
2 instead of requesting a hearing. If the individual does not  
3 request a hearing or if after notice and a hearing the  
4 Department of Human Services finds that the report is valid,  
5 the finding shall be included as part of the registry, as well  
6 as a brief statement from the reported individual if he or she  
7 chooses to make a statement. The Department of Public Health  
8 shall make available to the public information reported to the  
9 registry. In a case of inquiries concerning an individual  
10 listed in the registry, any information disclosed concerning a  
11 finding of abuse or neglect shall also include disclosure of  
12 the individual's brief statement in the registry relating to  
13 the reported finding or include a clear and accurate summary of  
14 the statement.

15 At any time after the report of the registry, an individual  
16 may petition the Department of Human Services for removal from  
17 the registry of the finding against him or her. Upon receipt of  
18 such a petition, the Department of Human Services shall conduct  
19 an investigation and hearing on the petition. Upon completion  
20 of the investigation and hearing, the Department of Human  
21 Services shall report the removal of the finding to the  
22 registry unless the Department of Human Services determines  
23 that removal is not in the public interest.

24 (h) Quality Care Board. There is created, within the Office  
25 of the Inspector General, a Quality Care Board to be composed  
26 of 7 members appointed by the Governor with the advice and

1 consent of the Senate. One of the members shall be designated  
2 as chairman by the Governor. Of the initial appointments made  
3 by the Governor, 4 Board members shall each be appointed for a  
4 term of 4 years and 3 members shall each be appointed for a  
5 term of 2 years. Upon the expiration of each member's term, a  
6 successor shall be appointed for a term of 4 years. In the case  
7 of a vacancy in the office of any member, the Governor shall  
8 appoint a successor for the remainder of the unexpired term.

9 Members appointed by the Governor shall be qualified by  
10 professional knowledge or experience in the area of law,  
11 investigatory techniques, or in the area of care of the  
12 mentally ill or developmentally disabled. Two members  
13 appointed by the Governor shall be persons with a disability or  
14 a parent of a person with a disability. Members shall serve  
15 without compensation, but shall be reimbursed for expenses  
16 incurred in connection with the performance of their duties as  
17 members.

18 The Board shall meet quarterly, and may hold other meetings  
19 on the call of the chairman. Four members shall constitute a  
20 quorum. The Board may adopt rules and regulations it deems  
21 necessary to govern its own procedures.

22 (i) Scope and function of the Quality Care Board. The Board  
23 shall monitor and oversee the operations, policies, and  
24 procedures of the Inspector General to assure the prompt and  
25 thorough investigation of allegations of neglect and abuse. In  
26 fulfilling these responsibilities, the Board may do the

1 following:

2 (1) Provide independent, expert consultation to the  
3 Inspector General on policies and protocols for  
4 investigations of alleged neglect and abuse.

5 (2) Review existing regulations relating to the  
6 operation of facilities under the control of the Department  
7 of Human Services.

8 (3) Advise the Inspector General as to the content of  
9 training activities authorized under this Section.

10 (4) Recommend policies concerning methods for  
11 improving the intergovernmental relationships between the  
12 Office of the Inspector General and other State or federal  
13 agencies.

14 (j) Investigators. The Inspector General shall establish a  
15 comprehensive program to ensure that every person employed or  
16 newly hired to conduct investigations shall receive training on  
17 an on-going basis concerning investigative techniques,  
18 communication skills, and the appropriate means of contact with  
19 persons admitted or committed to the mental health or  
20 developmental disabilities facilities under the jurisdiction  
21 of the Department of Human Services.

22 (k) Subpoenas; testimony; penalty. The Inspector General  
23 shall have the power to subpoena witnesses and compel the  
24 production of books and papers pertinent to an investigation  
25 authorized by this Act, provided that the power to subpoena or  
26 to compel the production of books and papers shall not extend

1 to the person or documents of a labor organization or its  
2 representatives insofar as the person or documents of a labor  
3 organization relate to the function of representing an employee  
4 subject to investigation under this Act. Mental health records  
5 of patients shall be confidential as provided under the Mental  
6 Health and Developmental Disabilities Confidentiality Act. Any  
7 person who fails to appear in response to a subpoena or to  
8 answer any question or produce any books or papers pertinent to  
9 an investigation under this Act, except as otherwise provided  
10 in this Section, or who knowingly gives false testimony in  
11 relation to an investigation under this Act is guilty of a  
12 Class A misdemeanor.

13 (1) Annual report. The Inspector General shall provide to  
14 the General Assembly and the Governor, no later than January 1  
15 of each year, a summary of reports and investigations made  
16 under this Act for the prior fiscal year with respect to  
17 residents of institutions under the jurisdiction of the  
18 Department of Human Services. The report shall detail the  
19 imposition of sanctions and the final disposition of those  
20 recommendations. The summaries shall not contain any  
21 confidential or identifying information concerning the  
22 subjects of the reports and investigations. The report shall  
23 also include a trend analysis of the number of reported  
24 allegations and their disposition, for each facility and  
25 Department-wide, for the most recent 3-year time period and a  
26 statement, for each facility, of the staffing-to-patient

1 ratios. The ratios shall include only the number of direct care  
2 staff. The report shall also include detailed recommended  
3 administrative actions and matters for consideration by the  
4 General Assembly.

5 (m) Program audit. The Auditor General shall conduct a  
6 biennial program audit of the Office of the Inspector General  
7 in relation to the Inspector General's compliance with this  
8 Act. The audit shall specifically include the Inspector  
9 General's effectiveness in investigating reports of alleged  
10 neglect or abuse of residents in any facility operated by the  
11 Department of Human Services and in making recommendations for  
12 sanctions to the Departments of Human Services and Public  
13 Health. The Auditor General shall conduct the program audit  
14 according to the provisions of the Illinois State Auditing Act  
15 and shall report its findings to the General Assembly no later  
16 than January 1 of each odd-numbered year.

17 (Source: P.A. 95-545, eff. 8-28-07.)

18 Section 90-10. The Mental Health and Developmental  
19 Disabilities Administrative Act is amended by changing Section  
20 15 as follows:

21 (20 ILCS 1705/15) (from Ch. 91 1/2, par. 100-15)

22 Sec. 15. Before any person is released from a facility  
23 operated by the State pursuant to an absolute discharge or a  
24 conditional discharge from hospitalization under this Act, the

1 facility director of the facility in which such person is  
2 hospitalized shall determine that such person is not currently  
3 in need of hospitalization and:

4 (a) is able to live independently in the community; or

5 (b) requires further oversight and supervisory care  
6 for which arrangements have been made with responsible  
7 relatives or supervised residential program approved by  
8 the Department; or

9 (c) requires further personal care or general  
10 oversight as defined by the Nursing Home Care Act or the  
11 MR/DD Community Care Act, for which placement arrangements  
12 have been made with a suitable family home or other  
13 licensed facility approved by the Department under this  
14 Section; or

15 (d) requires community mental health services for  
16 which arrangements have been made with a community mental  
17 health provider in accordance with criteria, standards,  
18 and procedures promulgated by rule.

19 Such determination shall be made in writing and shall  
20 become a part of the facility record of such absolutely or  
21 conditionally discharged person. When the determination  
22 indicates that the condition of the person to be granted an  
23 absolute discharge or a conditional discharge is described  
24 under subparagraph (c) or (d) of this Section, the name and  
25 address of the continuing care facility or home to which such  
26 person is to be released shall be entered in the facility

1 record. Where a discharge from a mental health facility is made  
2 under subparagraph (c), the Department shall assign the person  
3 so discharged to an existing community based not-for-profit  
4 agency for participation in day activities suitable to the  
5 person's needs, such as but not limited to social and  
6 vocational rehabilitation, and other recreational, educational  
7 and financial activities unless the community based  
8 not-for-profit agency is unqualified to accept such  
9 assignment. Where the clientele of any not-for-profit agency  
10 increases as a result of assignments under this amendatory Act  
11 of 1977 by more than 3% over the prior year, the Department  
12 shall fully reimburse such agency for the costs of providing  
13 services to such persons in excess of such 3% increase. The  
14 Department shall keep written records detailing how many  
15 persons have been assigned to a community based not-for-profit  
16 agency and how many persons were not so assigned because the  
17 community based agency was unable to accept the assignments, in  
18 accordance with criteria, standards, and procedures  
19 promulgated by rule. Whenever a community based agency is found  
20 to be unable to accept the assignments, the name of the agency  
21 and the reason for the finding shall be included in the report.

22 Insofar as desirable in the interests of the former  
23 recipient, the facility, program or home in which the  
24 discharged person is to be placed shall be located in or near  
25 the community in which the person resided prior to  
26 hospitalization or in the community in which the person's

1 family or nearest next of kin presently reside. Placement of  
2 the discharged person in facilities, programs or homes located  
3 outside of this State shall not be made by the Department  
4 unless there are no appropriate facilities, programs or homes  
5 available within this State. Out-of-state placements shall be  
6 subject to return of recipients so placed upon the availability  
7 of facilities, programs or homes within this State to  
8 accommodate these recipients, except where placement in a  
9 contiguous state results in locating a recipient in a facility  
10 or program closer to the recipient's home or family. If an  
11 appropriate facility or program becomes available equal to or  
12 closer to the recipient's home or family, the recipient shall  
13 be returned to and placed at the appropriate facility or  
14 program within this State.

15 To place any person who is under a program of the  
16 Department at board in a suitable family home or in such other  
17 facility or program as the Department may consider desirable.  
18 The Department may place in licensed nursing homes, sheltered  
19 care homes, or homes for the aged those persons whose  
20 behavioral manifestations and medical and nursing care needs  
21 are such as to be substantially indistinguishable from persons  
22 already living in such facilities. Prior to any placement by  
23 the Department under this Section, a determination shall be  
24 made by the personnel of the Department, as to the capability  
25 and suitability of such facility to adequately meet the needs  
26 of the person to be discharged. When specialized programs are

1 necessary in order to enable persons in need of supervised  
2 living to develop and improve in the community, the Department  
3 shall place such persons only in specialized residential care  
4 facilities which shall meet Department standards including  
5 restricted admission policy, special staffing and programming  
6 for social and vocational rehabilitation, in addition to the  
7 requirements of the appropriate State licensing agency. The  
8 Department shall not place any new person in a facility the  
9 license of which has been revoked or not renewed on grounds of  
10 inadequate programming, staffing, or medical or adjunctive  
11 services, regardless of the pendency of an action for  
12 administrative review regarding such revocation or failure to  
13 renew. Before the Department may transfer any person to a  
14 licensed nursing home, sheltered care home or home for the aged  
15 or place any person in a specialized residential care facility  
16 the Department shall notify the person to be transferred, or a  
17 responsible relative of such person, in writing, at least 30  
18 days before the proposed transfer, with respect to all the  
19 relevant facts concerning such transfer, except in cases of  
20 emergency when such notice is not required. If either the  
21 person to be transferred or a responsible relative of such  
22 person objects to such transfer, in writing to the Department,  
23 at any time after receipt of notice and before the transfer,  
24 the facility director of the facility in which the person was a  
25 recipient shall immediately schedule a hearing at the facility  
26 with the presence of the facility director, the person who

1 objected to such proposed transfer, and a psychiatrist who is  
2 familiar with the record of the person to be transferred. Such  
3 person to be transferred or a responsible relative may be  
4 represented by such counsel or interested party as he may  
5 appoint, who may present such testimony with respect to the  
6 proposed transfer. Testimony presented at such hearing shall  
7 become a part of the facility record of the  
8 person-to-be-transferred. The record of testimony shall be  
9 held in the person-to-be-transferred's record in the central  
10 files of the facility. If such hearing is held a transfer may  
11 only be implemented, if at all, in accordance with the results  
12 of such hearing. Within 15 days after such hearing the facility  
13 director shall deliver his findings based on the record of the  
14 case and the testimony presented at the hearing, by registered  
15 or certified mail, to the parties to such hearing. The findings  
16 of the facility director shall be deemed a final administrative  
17 decision of the Department. For purposes of this Section, "case  
18 of emergency" means those instances in which the health of the  
19 person to be transferred is imperiled and the most appropriate  
20 mental health care or medical care is available at a licensed  
21 nursing home, sheltered care home or home for the aged or a  
22 specialized residential care facility.

23 Prior to placement of any person in a facility under this  
24 Section the Department shall ensure that an appropriate  
25 training plan for staff is provided by the facility. Said  
26 training may include instruction and demonstration by

1 Department personnel qualified in the area of mental illness or  
2 mental retardation, as applicable to the person to be placed.  
3 Training may be given both at the facility from which the  
4 recipient is transferred and at the facility receiving the  
5 recipient, and may be available on a continuing basis  
6 subsequent to placement. In a facility providing services to  
7 former Department recipients, training shall be available as  
8 necessary for facility staff. Such training will be on a  
9 continuing basis as the needs of the facility and recipients  
10 change and further training is required.

11 The Department shall not place any person in a facility  
12 which does not have appropriately trained staff in sufficient  
13 numbers to accommodate the recipient population already at the  
14 facility. As a condition of further or future placements of  
15 persons, the Department shall require the employment of  
16 additional trained staff members at the facility where said  
17 persons are to be placed. The Secretary, or his or her  
18 designate, shall establish written guidelines for placement of  
19 persons in facilities under this Act. The Department shall keep  
20 written records detailing which facilities have been  
21 determined to have staff who have been appropriately trained by  
22 the Department and all training which it has provided or  
23 required under this Section.

24 Bills for the support for a person boarded out shall be  
25 payable monthly out of the proper maintenance funds and shall  
26 be audited as any other accounts of the Department. If a person

1 is placed in a facility or program outside the Department, the  
2 Department may pay the actual costs of residence, treatment or  
3 maintenance in such facility and may collect such actual costs  
4 or a portion thereof from the recipient or the estate of a  
5 person placed in accordance with this Section.

6 Other than those placed in a family home the Department  
7 shall cause all persons who are placed in a facility, as  
8 defined by the Nursing Home Care Act or the MR/DD Community  
9 Care Act, or in designated community living situations or  
10 programs, to be visited at least once during the first month  
11 following placement, and once every month thereafter for the  
12 first year following placement when indicated, but at least  
13 quarterly. After the first year, the Department shall determine  
14 at what point the appropriate licensing entity for the facility  
15 or designated community living situation or program will assume  
16 the responsibility of ensuring that appropriate services are  
17 being provided to the resident. Once that responsibility is  
18 assumed, the Department may discontinue such visits. If a long  
19 term care facility has periodic care plan conferences, the  
20 visitor may participate in those conferences, if such  
21 participation is approved by the resident or the resident's  
22 guardian. Visits shall be made by qualified and trained  
23 Department personnel, or their designee, in the area of mental  
24 health or developmental disabilities applicable to the person  
25 visited, and shall be made on a more frequent basis when  
26 indicated. The Department may not use as designee any personnel

1 connected with or responsible to the representatives of any  
2 facility in which persons who have been transferred under this  
3 Section are placed. In the course of such visit there shall be  
4 consideration of the following areas, but not limited thereto:  
5 effects of transfer on physical and mental health of the  
6 person, sufficiency of nursing care and medical coverage  
7 required by the person, sufficiency of staff personnel and  
8 ability to provide basic care for the person, social,  
9 recreational and programmatic activities available for the  
10 person, and other appropriate aspects of the person's  
11 environment.

12 A report containing the above observations shall be made to  
13 the Department, to the licensing agency, and to any other  
14 appropriate agency subsequent to each visitation. The report  
15 shall contain recommendations to improve the care and treatment  
16 of the resident, as necessary, which shall be reviewed by the  
17 facility's interdisciplinary team and the resident or the  
18 resident's legal guardian.

19 Upon the complaint of any person placed in accordance with  
20 this Section or any responsible citizen or upon discovery that  
21 such person has been abused, neglected, or improperly cared  
22 for, or that the placement does not provide the type of care  
23 required by the recipient's current condition, the Department  
24 immediately shall investigate, and determine if the  
25 well-being, health, care, or safety of any person is affected  
26 by any of the above occurrences, and if any one of the above

1 occurrences is verified, the Department shall remove such  
2 person at once to a facility of the Department or to another  
3 facility outside the Department, provided such person's needs  
4 can be met at said facility. The Department may also provide  
5 any person placed in accordance with this Section who is  
6 without available funds, and who is permitted to engage in  
7 employment outside the facility, such sums for the  
8 transportation, and other expenses as may be needed by him  
9 until he receives his wages for such employment.

10 The Department shall promulgate rules and regulations  
11 governing the purchase of care for persons who are wards of or  
12 who are receiving services from the Department. Such rules and  
13 regulations shall apply to all monies expended by any agency of  
14 the State of Illinois for services rendered by any person,  
15 corporate entity, agency, governmental agency or political  
16 subdivision whether public or private outside of the Department  
17 whether payment is made through a contractual, per-diem or  
18 other arrangement. No funds shall be paid to any person,  
19 corporation, agency, governmental entity or political  
20 subdivision without compliance with such rules and  
21 regulations.

22 The rules and regulations governing purchase of care shall  
23 describe categories and types of service deemed appropriate for  
24 purchase by the Department.

25 Any provider of services under this Act may elect to  
26 receive payment for those services, and the Department is

1 authorized to arrange for that payment, by means of direct  
2 deposit transmittals to the service provider's account  
3 maintained at a bank, savings and loan association, or other  
4 financial institution. The financial institution shall be  
5 approved by the Department, and the deposits shall be in  
6 accordance with rules and regulations adopted by the  
7 Department.

8 (Source: P.A. 93-636, eff. 6-1-04.)

9 Section 90-15. The Department of Public Health Powers and  
10 Duties Law of the Civil Administrative Code of Illinois is  
11 amended by changing Sections 2310-550, 2310-560, 2310-565, and  
12 2310-625 as follows:

13 (20 ILCS 2310/2310-550) (was 20 ILCS 2310/55.40)

14 Sec. 2310-550. Long-term care facilities. The Department  
15 may perform, in all long-term care facilities, as defined in  
16 the Nursing Home Care Act and all facilities as defined in the  
17 MR/DD Community Care Act, all inspection, evaluation,  
18 certification, and inspection of care duties that the federal  
19 government may require the State of Illinois to perform or have  
20 performed as a condition of participation in any programs under  
21 Title XVIII or Title XIX of the federal Social Security Act.

22 (Source: P.A. 91-239, eff. 1-1-00.)

23 (20 ILCS 2310/2310-560) (was 20 ILCS 2310/55.87)

1           Sec. 2310-560. Advisory committees concerning construction  
2 of facilities.

3           (a) The Director shall appoint an advisory committee. The  
4 committee shall be established by the Department by rule. The  
5 Director and the Department shall consult with the advisory  
6 committee concerning the application of building codes and  
7 Department rules related to those building codes to facilities  
8 under the Ambulatory Surgical Treatment Center Act, ~~and~~ the  
9 Nursing Home Care Act, and the MR/DD Community Care Act.

10           (b) The Director shall appoint an advisory committee to  
11 advise the Department and to conduct informal dispute  
12 resolution concerning the application of building codes for new  
13 and existing construction and related Department rules and  
14 standards under the Hospital Licensing Act, including without  
15 limitation rules and standards for (i) design and construction,  
16 (ii) engineering and maintenance of the physical plant, site,  
17 equipment, and systems (heating, cooling, electrical,  
18 ventilation, plumbing, water, sewer, and solid waste  
19 disposal), and (iii) fire and safety. The advisory committee  
20 shall be composed of all of the following members:

21           (1) The chairperson or an elected representative from  
22 the Hospital Licensing Board under the Hospital Licensing  
23 Act.

24           (2) Two health care architects with a minimum of 10  
25 years of experience in institutional design and building  
26 code analysis.

1           (3) Two engineering professionals (one mechanical and  
2           one electrical) with a minimum of 10 years of experience in  
3           institutional design and building code analysis.

4           (4) One commercial interior design professional with a  
5           minimum of 10 years of experience.

6           (5) Two representatives from provider associations.

7           (6) The Director or his or her designee, who shall  
8           serve as the committee moderator.

9           Appointments shall be made with the concurrence of the  
10          Hospital Licensing Board. The committee shall submit  
11          recommendations concerning the application of building codes  
12          and related Department rules and standards to the Hospital  
13          Licensing Board for review and comment prior to submission to  
14          the Department. The committee shall submit recommendations  
15          concerning informal dispute resolution to the Director. The  
16          Department shall provide per diem and travel expenses to the  
17          committee members.

18          (Source: P.A. 91-239, eff. 1-1-00; 92-803, eff. 8-16-02.)

19           (20 ILCS 2310/2310-565) (was 20 ILCS 2310/55.88)

20          Sec. 2310-565. Facility construction training program. The  
21          Department shall conduct, at least annually, a joint in-service  
22          training program for architects, engineers, interior  
23          designers, and other persons involved in the construction of a  
24          facility under the Ambulatory Surgical Treatment Center Act,  
25          the Nursing Home Care Act, the MR/DD Community Care Act, or the

1 Hospital Licensing Act on problems and issues relating to the  
2 construction of facilities under any of those Acts.

3 (Source: P.A. 90-327, eff. 8-8-97; 90-655, eff. 7-30-98;  
4 91-239, eff. 1-1-00.)

5 (20 ILCS 2310/2310-625)

6 Sec. 2310-625. Emergency Powers.

7 (a) Upon proclamation of a disaster by the Governor, as  
8 provided for in the Illinois Emergency Management Agency Act,  
9 the Director of Public Health shall have the following powers,  
10 which shall be exercised only in coordination with the Illinois  
11 Emergency Management Agency and the Department of Financial and  
12 Professional Regulation:

13 (1) The power to suspend the requirements for temporary  
14 or permanent licensure or certification of persons who are  
15 licensed or certified in another state and are working  
16 under the direction of the Illinois Emergency Management  
17 Agency and the Illinois Department of Public Health  
18 pursuant to the declared disaster.

19 (2) The power to modify the scope of practice  
20 restrictions under the Emergency Medical Services (EMS)  
21 Systems Act for any persons who are licensed under that Act  
22 for any person working under the direction of the Illinois  
23 Emergency Management Agency and the Illinois Department of  
24 Public Health pursuant to the declared disaster.

25 (3) The power to modify the scope of practice

1 restrictions under the Nursing Home Care Act or the MR/DD  
2 Community Care Act for Certified Nursing Assistants for any  
3 person working under the direction of the Illinois  
4 Emergency Management Agency and the Illinois Department of  
5 Public Health pursuant to the declared disaster.

6 (b) Persons exempt from licensure or certification under  
7 paragraph (1) of subsection (a) and persons operating under  
8 modified scope of practice provisions under paragraph (2) of  
9 subsection (a) and paragraph (3) of subsection (a) shall be  
10 exempt from licensure or certification or subject to modified  
11 scope of practice only until the declared disaster has ended as  
12 provided by law. For purposes of this Section, persons working  
13 under the direction of an emergency services and disaster  
14 agency accredited by the Illinois Emergency Management Agency  
15 and a local public health department, pursuant to a declared  
16 disaster, shall be deemed to be working under the direction of  
17 the Illinois Emergency Management Agency and the Department of  
18 Public Health.

19 (c) The Director shall exercise these powers by way of  
20 proclamation.

21 (Source: P.A. 93-829, eff. 7-28-04; 94-733, eff. 4-27-06.)

22 Section 90-20. The Disabilities Services Act of 2003 is  
23 amended by changing Section 52 as follows:

24 (20 ILCS 2407/52)

1           Sec. 52. Applicability; definitions. In accordance with  
2 Section 6071 of the Deficit Reduction Act of 2005 (P.L.  
3 109-171), as used in this Article:

4           "Departments". The term "Departments" means for the  
5 purposes of this Act, the Department of Human Services, the  
6 Department on Aging, Department of Healthcare and Family  
7 Services and Department of Public Health, unless otherwise  
8 noted.

9           "Home and community-based long-term care services". The  
10 term "home and community-based long-term care services" means,  
11 with respect to the State Medicaid program, a service aid, or  
12 benefit, home and community-based services, including but not  
13 limited to home health and personal care services, that are  
14 provided to a person with a disability, and are voluntarily  
15 accepted, as part of his or her long-term care that: (i) is  
16 provided under the State's qualified home and community-based  
17 program or that could be provided under such a program but is  
18 otherwise provided under the Medicaid program; (ii) is  
19 delivered in a qualified residence; and (iii) is necessary for  
20 the person with a disability to live in the community.

21           "Long-term care facility". The term "long-term care  
22 facility", for the purposes of this Article, means a skilled  
23 nursing or intermediate long-term care facility subject to  
24 licensure by the Department of Public Health under the Nursing  
25 Home Care Act or the MR/DD Community Care Act, an intermediate  
26 care facility for the developmentally disabled (ICF-DDs), and a

1 State-operated developmental center or mental health center,  
2 whether publicly or privately owned.

3 "Money Follows the Person" Demonstration. Enacted by the  
4 Deficit Reduction Act of 2005, the Money Follows the Person  
5 (MFP) Rebalancing Demonstration is part of a comprehensive,  
6 coordinated strategy to assist states, in collaboration with  
7 stakeholders, to make widespread changes to their long-term  
8 care support systems. This initiative will assist states in  
9 their efforts to reduce their reliance on institutional care  
10 while developing community-based long-term care opportunities,  
11 enabling the elderly and people with disabilities to fully  
12 participate in their communities.

13 "Public funds" mean any funds appropriated by the General  
14 Assembly to the Departments of Human Services, on Aging, of  
15 Healthcare and Family Services and of Public Health for  
16 settings and services as defined in this Article.

17 "Qualified residence". The term "qualified residence"  
18 means, with respect to an eligible individual: (i) a home owned  
19 or leased by the individual or the individual's authorized  
20 representative (as defined by P.L. 109-171); (ii) an apartment  
21 with an individual lease, with lockable access and egress, and  
22 which includes living, sleeping, bathing, and cooking areas  
23 over which the individual or the individual's family has domain  
24 and control; or (iii) a residence, in a community-based  
25 residential setting, in which no more than 4 unrelated  
26 individuals reside. Where qualified residences are not

1 sufficient to meet the demand of eligible individuals,  
2 time-limited exceptions to this definition may be developed  
3 through administrative rule.

4 "Self-directed services". The term "self-directed  
5 services" means, with respect to home and community-based  
6 long-term services for an eligible individual, those services  
7 for the individual that are planned and purchased under the  
8 direction and control of the individual or the individual's  
9 authorized representative, including the amount, duration,  
10 scope, provider, and location of such services, under the State  
11 Medicaid program consistent with the following requirements:

12 (a) Assessment: there is an assessment of the needs,  
13 capabilities, and preference of the individual with  
14 respect to such services.

15 (b) Individual service care or treatment plan: based on  
16 the assessment, there is development jointly with such  
17 individual or individual's authorized representative, a  
18 plan for such services for the individual that (i)  
19 specifies those services, if any, that the individual or  
20 the individual's authorized representative would be  
21 responsible for directing; (ii) identifies the methods by  
22 which the individual or the individual's authorized  
23 representative or an agency designated by an individual or  
24 representative will select, manage, and dismiss providers  
25 of such services.

26 (Source: P.A. 95-438, eff. 1-1-08.)

1           Section 90-25. The Abuse of Adults with Disabilities  
2 Intervention Act is amended by changing Section 15 as follows:

3           (20 ILCS 2435/15) (from Ch. 23, par. 3395-15)

4           Sec. 15. Definitions. As used in this Act:

5           "Abuse" means causing any physical, sexual, or mental  
6 injury to an adult with disabilities, including exploitation of  
7 the adult's financial resources. Nothing in this Act shall be  
8 construed to mean that an adult with disabilities is a victim  
9 of abuse or neglect for the sole reason that he or she is being  
10 furnished with or relies upon treatment by spiritual means  
11 through prayer alone, in accordance with the tenets and  
12 practices of a recognized church or religious denomination.  
13 Nothing in this Act shall be construed to mean that an adult  
14 with disabilities is a victim of abuse because of health care  
15 services provided or not provided by licensed health care  
16 professionals.

17           "Adult with disabilities" means a person aged 18 through 59  
18 who resides in a domestic living situation and whose physical  
19 or mental disability impairs his or her ability to seek or  
20 obtain protection from abuse, neglect, or exploitation.

21           "Department" means the Department of Human Services.

22           "Adults with Disabilities Abuse Project" or "project"  
23 means that program within the Office of Inspector General  
24 designated by the Department of Human Services to receive and

1 assess reports of alleged or suspected abuse, neglect, or  
2 exploitation of adults with disabilities.

3 "Domestic living situation" means a residence where the  
4 adult with disabilities lives alone or with his or her family  
5 or household members, a care giver, or others or at a board and  
6 care home or other community-based unlicensed facility, but is  
7 not:

8 (1) A licensed facility as defined in Section 1-113 of  
9 the Nursing Home Care Act or Section 1-113 of the MR/DD  
10 Community Care Act.

11 (2) A life care facility as defined in the Life Care  
12 Facilities Act.

13 (3) A home, institution, or other place operated by the  
14 federal government, a federal agency, or the State.

15 (4) A hospital, sanitarium, or other institution, the  
16 principal activity or business of which is the diagnosis,  
17 care, and treatment of human illness through the  
18 maintenance and operation of organized facilities and that  
19 is required to be licensed under the Hospital Licensing  
20 Act.

21 (5) A community living facility as defined in the  
22 Community Living Facilities Licensing Act.

23 (6) A community-integrated living arrangement as  
24 defined in the Community-Integrated Living Arrangements  
25 Licensure and Certification Act or community residential  
26 alternative as licensed under that Act.

1 "Emergency" means a situation in which an adult with  
2 disabilities is in danger of death or great bodily harm.

3 "Exploitation" means the illegal, including tortious, use  
4 of the assets or resources of an adult with disabilities.  
5 Exploitation includes, but is not limited to, the  
6 misappropriation of assets or resources of an adult with  
7 disabilities by undue influence, by breach of a fiduciary  
8 relationship, by fraud, deception, or extortion, or by the use  
9 of the assets or resources in a manner contrary to law.

10 "Family or household members" means a person who as a  
11 family member, volunteer, or paid care provider has assumed  
12 responsibility for all or a portion of the care of an adult  
13 with disabilities who needs assistance with activities of daily  
14 living.

15 "Neglect" means the failure of another individual to  
16 provide an adult with disabilities with or the willful  
17 withholding from an adult with disabilities the necessities of  
18 life, including, but not limited to, food, clothing, shelter,  
19 or medical care.

20 Nothing in the definition of "neglect" shall be construed to  
21 impose a requirement that assistance be provided to an adult  
22 with disabilities over his or her objection in the absence of a  
23 court order, nor to create any new affirmative duty to provide  
24 support, assistance, or intervention to an adult with  
25 disabilities. Nothing in this Act shall be construed to mean  
26 that an adult with disabilities is a victim of neglect because

1 of health care services provided or not provided by licensed  
2 health care professionals.

3 "Physical abuse" includes sexual abuse and means any of the  
4 following:

5 (1) knowing or reckless use of physical force,  
6 confinement, or restraint;

7 (2) knowing, repeated, and unnecessary sleep  
8 deprivation; or

9 (3) knowing or reckless conduct which creates an  
10 immediate risk of physical harm.

11 "Secretary" means the Secretary of Human Services.

12 "Sexual abuse" means touching, fondling, sexual threats,  
13 sexually inappropriate remarks, or any other sexual activity  
14 with an adult with disabilities when the adult with  
15 disabilities is unable to understand, unwilling to consent,  
16 threatened, or physically forced to engage in sexual behavior.

17 "Substantiated case" means a reported case of alleged or  
18 suspected abuse, neglect, or exploitation in which the Adults  
19 with Disabilities Abuse Project staff, after assessment,  
20 determines that there is reason to believe abuse, neglect, or  
21 exploitation has occurred.

22 (Source: P.A. 91-671, eff. 7-1-00.)

23 Section 90-30. The Illinois Finance Authority Act is  
24 amended by changing Section 801-10 as follows:

1 (20 ILCS 3501/801-10)

2 Sec. 801-10. Definitions. The following terms, whenever  
3 used or referred to in this Act, shall have the following  
4 meanings, except in such instances where the context may  
5 clearly indicate otherwise:

6 (a) The term "Authority" means the Illinois Finance  
7 Authority created by this Act.

8 (b) The term "project" means an industrial project,  
9 conservation project, housing project, public purpose project,  
10 higher education project, health facility project, cultural  
11 institution project, agricultural facility or agribusiness,  
12 and "project" may include any combination of one or more of the  
13 foregoing undertaken jointly by any person with one or more  
14 other persons.

15 (c) The term "public purpose project" means any project or  
16 facility including without limitation land, buildings,  
17 structures, machinery, equipment and all other real and  
18 personal property, which is authorized or required by law to be  
19 acquired, constructed, improved, rehabilitated, reconstructed,  
20 replaced or maintained by any unit of government or any other  
21 lawful public purpose which is authorized or required by law to  
22 be undertaken by any unit of government.

23 (d) The term "industrial project" means the acquisition,  
24 construction, refurbishment, creation, development or  
25 redevelopment of any facility, equipment, machinery, real  
26 property or personal property for use by any instrumentality of

1 the State or its political subdivisions, for use by any person  
2 or institution, public or private, for profit or not for  
3 profit, or for use in any trade or business including, but not  
4 limited to, any industrial, manufacturing or commercial  
5 enterprise and which is (1) a capital project including but not  
6 limited to: (i) land and any rights therein, one or more  
7 buildings, structures or other improvements, machinery and  
8 equipment, whether now existing or hereafter acquired, and  
9 whether or not located on the same site or sites; (ii) all  
10 appurtenances and facilities incidental to the foregoing,  
11 including, but not limited to utilities, access roads, railroad  
12 sidings, track, docking and similar facilities, parking  
13 facilities, dockage, wharfage, railroad roadbed, track,  
14 trestle, depot, terminal, switching and signaling or related  
15 equipment, site preparation and landscaping; and (iii) all  
16 non-capital costs and expenses relating thereto or (2) any  
17 addition to, renovation, rehabilitation or improvement of a  
18 capital project or (3) any activity or undertaking which the  
19 Authority determines will aid, assist or encourage economic  
20 growth, development or redevelopment within the State or any  
21 area thereof, will promote the expansion, retention or  
22 diversification of employment opportunities within the State  
23 or any area thereof or will aid in stabilizing or developing  
24 any industry or economic sector of the State economy. The term  
25 "industrial project" also means the production of motion  
26 pictures.

1 (e) The term "bond" or "bonds" shall include bonds, notes  
2 (including bond, grant or revenue anticipation notes),  
3 certificates and/or other evidences of indebtedness  
4 representing an obligation to pay money, including refunding  
5 bonds.

6 (f) The terms "lease agreement" and "loan agreement" shall  
7 mean: (i) an agreement whereby a project acquired by the  
8 Authority by purchase, gift or lease is leased to any person,  
9 corporation or unit of local government which will use or cause  
10 the project to be used as a project as heretofore defined upon  
11 terms providing for lease rental payments at least sufficient  
12 to pay when due all principal of, interest and premium, if any,  
13 on any bonds of the Authority issued with respect to such  
14 project, providing for the maintenance, insuring and operation  
15 of the project on terms satisfactory to the Authority,  
16 providing for disposition of the project upon termination of  
17 the lease term, including purchase options or abandonment of  
18 the premises, and such other terms as may be deemed desirable  
19 by the Authority, or (ii) any agreement pursuant to which the  
20 Authority agrees to loan the proceeds of its bonds issued with  
21 respect to a project or other funds of the Authority to any  
22 person which will use or cause the project to be used as a  
23 project as heretofore defined upon terms providing for loan  
24 repayment installments at least sufficient to pay when due all  
25 principal of, interest and premium, if any, on any bonds of the  
26 Authority, if any, issued with respect to the project, and

1 providing for maintenance, insurance and other matters as may  
2 be deemed desirable by the Authority.

3 (g) The term "financial aid" means the expenditure of  
4 Authority funds or funds provided by the Authority through the  
5 issuance of its bonds, notes or other evidences of indebtedness  
6 or from other sources for the development, construction,  
7 acquisition or improvement of a project.

8 (h) The term "person" means an individual, corporation,  
9 unit of government, business trust, estate, trust, partnership  
10 or association, 2 or more persons having a joint or common  
11 interest, or any other legal entity.

12 (i) The term "unit of government" means the federal  
13 government, the State or unit of local government, a school  
14 district, or any agency or instrumentality, office, officer,  
15 department, division, bureau, commission, college or  
16 university thereof.

17 (j) The term "health facility" means: (a) any public or  
18 private institution, place, building, or agency required to be  
19 licensed under the Hospital Licensing Act; (b) any public or  
20 private institution, place, building, or agency required to be  
21 licensed under the Nursing Home Care Act or the MR/DD Community  
22 Care Act; (c) any public or licensed private hospital as  
23 defined in the Mental Health and Developmental Disabilities  
24 Code; (d) any such facility exempted from such licensure when  
25 the Director of Public Health attests that such exempted  
26 facility meets the statutory definition of a facility subject

1 to licensure; (e) any other public or private health service  
2 institution, place, building, or agency which the Director of  
3 Public Health attests is subject to certification by the  
4 Secretary, U.S. Department of Health and Human Services under  
5 the Social Security Act, as now or hereafter amended, or which  
6 the Director of Public Health attests is subject to  
7 standard-setting by a recognized public or voluntary  
8 accrediting or standard-setting agency; (f) any public or  
9 private institution, place, building or agency engaged in  
10 providing one or more supporting services to a health facility;  
11 (g) any public or private institution, place, building or  
12 agency engaged in providing training in the healing arts,  
13 including but not limited to schools of medicine, dentistry,  
14 osteopathy, optometry, podiatry, pharmacy or nursing, schools  
15 for the training of x-ray, laboratory or other health care  
16 technicians and schools for the training of para-professionals  
17 in the health care field; (h) any public or private congregate,  
18 life or extended care or elderly housing facility or any public  
19 or private home for the aged or infirm, including, without  
20 limitation, any Facility as defined in the Life Care Facilities  
21 Act; (i) any public or private mental, emotional or physical  
22 rehabilitation facility or any public or private educational,  
23 counseling, or rehabilitation facility or home, for those  
24 persons with a developmental disability, those who are  
25 physically ill or disabled, the emotionally disturbed, those  
26 persons with a mental illness or persons with learning or

1 similar disabilities or problems; (j) any public or private  
2 alcohol, drug or substance abuse diagnosis, counseling  
3 treatment or rehabilitation facility, (k) any public or private  
4 institution, place, building or agency licensed by the  
5 Department of Children and Family Services or which is not so  
6 licensed but which the Director of Children and Family Services  
7 attests provides child care, child welfare or other services of  
8 the type provided by facilities subject to such licensure; (l)  
9 any public or private adoption agency or facility; and (m) any  
10 public or private blood bank or blood center. "Health facility"  
11 also means a public or private structure or structures suitable  
12 primarily for use as a laboratory, laundry, nurses or interns  
13 residence or other housing or hotel facility used in whole or  
14 in part for staff, employees or students and their families,  
15 patients or relatives of patients admitted for treatment or  
16 care in a health facility, or persons conducting business with  
17 a health facility, physician's facility, surgicenter,  
18 administration building, research facility, maintenance,  
19 storage or utility facility and all structures or facilities  
20 related to any of the foregoing or required or useful for the  
21 operation of a health facility, including parking or other  
22 facilities or other supporting service structures required or  
23 useful for the orderly conduct of such health facility.

24 (k) The term "participating health institution" means a  
25 private corporation or association or public entity of this  
26 State, authorized by the laws of this State to provide or

1 operate a health facility as defined in this Act and which,  
2 pursuant to the provisions of this Act, undertakes the  
3 financing, construction or acquisition of a project or  
4 undertakes the refunding or refinancing of obligations, loans,  
5 indebtedness or advances as provided in this Act.

6 (l) The term "health facility project", means a specific  
7 health facility work or improvement to be financed or  
8 refinanced (including without limitation through reimbursement  
9 of prior expenditures), acquired, constructed, enlarged,  
10 remodeled, renovated, improved, furnished, or equipped, with  
11 funds provided in whole or in part hereunder, any accounts  
12 receivable, working capital, liability or insurance cost or  
13 operating expense financing or refinancing program of a health  
14 facility with or involving funds provided in whole or in part  
15 hereunder, or any combination thereof.

16 (m) The term "bond resolution" means the resolution or  
17 resolutions authorizing the issuance of, or providing terms and  
18 conditions related to, bonds issued under this Act and  
19 includes, where appropriate, any trust agreement, trust  
20 indenture, indenture of mortgage or deed of trust providing  
21 terms and conditions for such bonds.

22 (n) The term "property" means any real, personal or mixed  
23 property, whether tangible or intangible, or any interest  
24 therein, including, without limitation, any real estate,  
25 leasehold interests, appurtenances, buildings, easements,  
26 equipment, furnishings, furniture, improvements, machinery,

1 rights of way, structures, accounts, contract rights or any  
2 interest therein.

3 (o) The term "revenues" means, with respect to any project,  
4 the rents, fees, charges, interest, principal repayments,  
5 collections and other income or profit derived therefrom.

6 (p) The term "higher education project" means, in the case  
7 of a private institution of higher education, an educational  
8 facility to be acquired, constructed, enlarged, remodeled,  
9 renovated, improved, furnished, or equipped, or any  
10 combination thereof.

11 (q) The term "cultural institution project" means, in the  
12 case of a cultural institution, a cultural facility to be  
13 acquired, constructed, enlarged, remodeled, renovated,  
14 improved, furnished, or equipped, or any combination thereof.

15 (r) The term "educational facility" means any property  
16 located within the State constructed or acquired before or  
17 after the effective date of this Act, which is or will be, in  
18 whole or in part, suitable for the instruction, feeding,  
19 recreation or housing of students, the conducting of research  
20 or other work of a private institution of higher education, the  
21 use by a private institution of higher education in connection  
22 with any educational, research or related or incidental  
23 activities then being or to be conducted by it, or any  
24 combination of the foregoing, including, without limitation,  
25 any such property suitable for use as or in connection with any  
26 one or more of the following: an academic facility,

1 administrative facility, agricultural facility, assembly hall,  
2 athletic facility, auditorium, boating facility, campus,  
3 communication facility, computer facility, continuing  
4 education facility, classroom, dining hall, dormitory,  
5 exhibition hall, fire fighting facility, fire prevention  
6 facility, food service and preparation facility, gymnasium,  
7 greenhouse, health care facility, hospital, housing,  
8 instructional facility, laboratory, library, maintenance  
9 facility, medical facility, museum, offices, parking area,  
10 physical education facility, recreational facility, research  
11 facility, stadium, storage facility, student union, study  
12 facility, theatre or utility.

13 (s) The term "cultural facility" means any property located  
14 within the State constructed or acquired before or after the  
15 effective date of this Act, which is or will be, in whole or in  
16 part, suitable for the particular purposes or needs of a  
17 cultural institution, including, without limitation, any such  
18 property suitable for use as or in connection with any one or  
19 more of the following: an administrative facility, aquarium,  
20 assembly hall, auditorium, botanical garden, exhibition hall,  
21 gallery, greenhouse, library, museum, scientific laboratory,  
22 theater or zoological facility, and shall also include, without  
23 limitation, books, works of art or music, animal, plant or  
24 aquatic life or other items for display, exhibition or  
25 performance. The term "cultural facility" includes buildings  
26 on the National Register of Historic Places which are owned or

1 operated by nonprofit entities.

2 (t) "Private institution of higher education" means a  
3 not-for-profit educational institution which is not owned by  
4 the State or any political subdivision, agency,  
5 instrumentality, district or municipality thereof, which is  
6 authorized by law to provide a program of education beyond the  
7 high school level and which:

8 (1) Admits as regular students only individuals having  
9 a certificate of graduation from a high school, or the  
10 recognized equivalent of such a certificate;

11 (2) Provides an educational program for which it awards  
12 a bachelor's degree, or provides an educational program,  
13 admission into which is conditioned upon the prior  
14 attainment of a bachelor's degree or its equivalent, for  
15 which it awards a postgraduate degree, or provides not less  
16 than a 2-year program which is acceptable for full credit  
17 toward such a degree, or offers a 2-year program in  
18 engineering, mathematics, or the physical or biological  
19 sciences which is designed to prepare the student to work  
20 as a technician and at a semiprofessional level in  
21 engineering, scientific, or other technological fields  
22 which require the understanding and application of basic  
23 engineering, scientific, or mathematical principles or  
24 knowledge;

25 (3) Is accredited by a nationally recognized  
26 accrediting agency or association or, if not so accredited,

1 is an institution whose credits are accepted, on transfer,  
2 by not less than 3 institutions which are so accredited,  
3 for credit on the same basis as if transferred from an  
4 institution so accredited, and holds an unrevoked  
5 certificate of approval under the Private College Act from  
6 the Board of Higher Education, or is qualified as a "degree  
7 granting institution" under the Academic Degree Act; and

8 (4) Does not discriminate in the admission of students  
9 on the basis of race or color. "Private institution of  
10 higher education" also includes any "academic  
11 institution".

12 (u) The term "academic institution" means any  
13 not-for-profit institution which is not owned by the State or  
14 any political subdivision, agency, instrumentality, district  
15 or municipality thereof, which institution engages in, or  
16 facilitates academic, scientific, educational or professional  
17 research or learning in a field or fields of study taught at a  
18 private institution of higher education. Academic institutions  
19 include, without limitation, libraries, archives, academic,  
20 scientific, educational or professional societies,  
21 institutions, associations or foundations having such  
22 purposes.

23 (v) The term "cultural institution" means any  
24 not-for-profit institution which is not owned by the State or  
25 any political subdivision, agency, instrumentality, district  
26 or municipality thereof, which institution engages in the

1 cultural, intellectual, scientific, educational or artistic  
2 enrichment of the people of the State. Cultural institutions  
3 include, without limitation, aquaria, botanical societies,  
4 historical societies, libraries, museums, performing arts  
5 associations or societies, scientific societies and zoological  
6 societies.

7 (w) The term "affiliate" means, with respect to financing  
8 of an agricultural facility or an agribusiness, any lender, any  
9 person, firm or corporation controlled by, or under common  
10 control with, such lender, and any person, firm or corporation  
11 controlling such lender.

12 (x) The term "agricultural facility" means land, any  
13 building or other improvement thereon or thereto, and any  
14 personal properties deemed necessary or suitable for use,  
15 whether or not now in existence, in farming, ranching, the  
16 production of agricultural commodities (including, without  
17 limitation, the products of aquaculture, hydroponics and  
18 silviculture) or the treating, processing or storing of such  
19 agricultural commodities when such activities are customarily  
20 engaged in by farmers as a part of farming.

21 (y) The term "lender" with respect to financing of an  
22 agricultural facility or an agribusiness, means any federal or  
23 State chartered bank, Federal Land Bank, Production Credit  
24 Association, Bank for Cooperatives, federal or State chartered  
25 savings and loan association or building and loan association,  
26 Small Business Investment Company or any other institution

1 qualified within this State to originate and service loans,  
2 including, but without limitation to, insurance companies,  
3 credit unions and mortgage loan companies. "Lender" also means  
4 a wholly owned subsidiary of a manufacturer, seller or  
5 distributor of goods or services that makes loans to businesses  
6 or individuals, commonly known as a "captive finance company".

7 (z) The term "agribusiness" means any sole proprietorship,  
8 limited partnership, co-partnership, joint venture,  
9 corporation or cooperative which operates or will operate a  
10 facility located within the State of Illinois that is related  
11 to the processing of agricultural commodities (including,  
12 without limitation, the products of aquaculture, hydroponics  
13 and silviculture) or the manufacturing, production or  
14 construction of agricultural buildings, structures, equipment,  
15 implements, and supplies, or any other facilities or processes  
16 used in agricultural production. Agribusiness includes but is  
17 not limited to the following:

18 (1) grain handling and processing, including grain  
19 storage, drying, treatment, conditioning, mailing and  
20 packaging;

21 (2) seed and feed grain development and processing;

22 (3) fruit and vegetable processing, including  
23 preparation, canning and packaging;

24 (4) processing of livestock and livestock products,  
25 dairy products, poultry and poultry products, fish or  
26 apiarian products, including slaughter, shearing,

1 collecting, preparation, canning and packaging;

2 (5) fertilizer and agricultural chemical  
3 manufacturing, processing, application and supplying;

4 (6) farm machinery, equipment and implement  
5 manufacturing and supplying;

6 (7) manufacturing and supplying of agricultural  
7 commodity processing machinery and equipment, including  
8 machinery and equipment used in slaughter, treatment,  
9 handling, collecting, preparation, canning or packaging of  
10 agricultural commodities;

11 (8) farm building and farm structure manufacturing,  
12 construction and supplying;

13 (9) construction, manufacturing, implementation,  
14 supplying or servicing of irrigation, drainage and soil and  
15 water conservation devices or equipment;

16 (10) fuel processing and development facilities that  
17 produce fuel from agricultural commodities or byproducts;

18 (11) facilities and equipment for processing and  
19 packaging agricultural commodities specifically for  
20 export;

21 (12) facilities and equipment for forestry product  
22 processing and supplying, including sawmilling operations,  
23 wood chip operations, timber harvesting operations, and  
24 manufacturing of prefabricated buildings, paper, furniture  
25 or other goods from forestry products;

26 (13) facilities and equipment for research and

1 development of products, processes and equipment for the  
2 production, processing, preparation or packaging of  
3 agricultural commodities and byproducts.

4 (aa) The term "asset" with respect to financing of any  
5 agricultural facility or any agribusiness, means, but is not  
6 limited to the following: cash crops or feed on hand; livestock  
7 held for sale; breeding stock; marketable bonds and securities;  
8 securities not readily marketable; accounts receivable; notes  
9 receivable; cash invested in growing crops; net cash value of  
10 life insurance; machinery and equipment; cars and trucks; farm  
11 and other real estate including life estates and personal  
12 residence; value of beneficial interests in trusts; government  
13 payments or grants; and any other assets.

14 (bb) The term "liability" with respect to financing of any  
15 agricultural facility or any agribusiness shall include, but  
16 not be limited to the following: accounts payable; notes or  
17 other indebtedness owed to any source; taxes; rent; amounts  
18 owed on real estate contracts or real estate mortgages;  
19 judgments; accrued interest payable; and any other liability.

20 (cc) The term "Predecessor Authorities" means those  
21 authorities as described in Section 845-75.

22 (dd) The term "housing project" means a specific work or  
23 improvement undertaken to provide residential dwelling  
24 accommodations, including the acquisition, construction or  
25 rehabilitation of lands, buildings and community facilities  
26 and in connection therewith to provide nonhousing facilities

1 which are part of the housing project, including land,  
2 buildings, improvements, equipment and all ancillary  
3 facilities for use for offices, stores, retirement homes,  
4 hotels, financial institutions, service, health care,  
5 education, recreation or research establishments, or any other  
6 commercial purpose which are or are to be related to a housing  
7 development.

8 (ee) The term "conservation project" means any project  
9 including the acquisition, construction, rehabilitation,  
10 maintenance, operation, or upgrade that is intended to create  
11 or expand open space or to reduce energy usage through  
12 efficiency measures. For the purpose of this definition, "open  
13 space" has the definition set forth under Section 10 of the  
14 Illinois Open Land Trust Act.

15 (Source: P.A. 95-697, eff. 11-6-07.)

16 Section 90-35. The Illinois Health Facilities Planning Act  
17 is amended by changing Sections 3, 12, 13, and 14.1 as follows:

18 (20 ILCS 3960/3) (from Ch. 111 1/2, par. 1153)

19 (Section scheduled to be repealed on July 1, 2009)

20 Sec. 3. Definitions. As used in this Act:

21 "Health care facilities" means and includes the following  
22 facilities and organizations:

23 1. An ambulatory surgical treatment center required to  
24 be licensed pursuant to the Ambulatory Surgical Treatment

1 Center Act;

2 2. An institution, place, building, or agency required  
3 to be licensed pursuant to the Hospital Licensing Act;

4 3. Skilled and intermediate long term care facilities  
5 licensed under the Nursing Home Care Act or the MR/DD  
6 Community Care Act;

7 4. Hospitals, nursing homes, ambulatory surgical  
8 treatment centers, or kidney disease treatment centers  
9 maintained by the State or any department or agency  
10 thereof;

11 5. Kidney disease treatment centers, including a  
12 free-standing hemodialysis unit required to be licensed  
13 under the End Stage Renal Disease Facility Act; and

14 6. An institution, place, building, or room used for  
15 the performance of outpatient surgical procedures that is  
16 leased, owned, or operated by or on behalf of an  
17 out-of-state facility.

18 This Act shall not apply to the construction of any new  
19 facility or the renovation of any existing facility located on  
20 any campus facility as defined in Section 5-5.8b of the  
21 Illinois Public Aid Code, provided that the campus facility  
22 encompasses 30 or more contiguous acres and that the new or  
23 renovated facility is intended for use by a licensed  
24 residential facility.

25 No federally owned facility shall be subject to the  
26 provisions of this Act, nor facilities used solely for healing

1 by prayer or spiritual means.

2 No facility licensed under the Supportive Residences  
3 Licensing Act or the Assisted Living and Shared Housing Act  
4 shall be subject to the provisions of this Act.

5 A facility designated as a supportive living facility that  
6 is in good standing with the program established under Section  
7 5-5.01a of the Illinois Public Aid Code shall not be subject to  
8 the provisions of this Act.

9 This Act does not apply to facilities granted waivers under  
10 Section 3-102.2 of the Nursing Home Care Act. However, if a  
11 demonstration project under that Act applies for a certificate  
12 of need to convert to a nursing facility, it shall meet the  
13 licensure and certificate of need requirements in effect as of  
14 the date of application.

15 This Act does not apply to a dialysis facility that  
16 provides only dialysis training, support, and related services  
17 to individuals with end stage renal disease who have elected to  
18 receive home dialysis. This Act does not apply to a dialysis  
19 unit located in a licensed nursing home that offers or provides  
20 dialysis-related services to residents with end stage renal  
21 disease who have elected to receive home dialysis within the  
22 nursing home. The Board, however, may require these dialysis  
23 facilities and licensed nursing homes to report statistical  
24 information on a quarterly basis to the Board to be used by the  
25 Board to conduct analyses on the need for proposed kidney  
26 disease treatment centers.

1           This Act shall not apply to the closure of an entity or a  
2 portion of an entity licensed under the Nursing Home Care Act,  
3 with the exceptions of facilities operated by a county or  
4 Illinois Veterans Homes, that elects to convert, in whole or in  
5 part, to an assisted living or shared housing establishment  
6 licensed under the Assisted Living and Shared Housing Act.

7           This Act does not apply to any change of ownership of a  
8 healthcare facility that is licensed under the Nursing Home  
9 Care Act, with the exceptions of facilities operated by a  
10 county or Illinois Veterans Homes. Changes of ownership of  
11 facilities licensed under the Nursing Home Care Act must meet  
12 the requirements set forth in Sections 3-101 through 3-119 of  
13 the Nursing Home Care Act.

14           With the exception of those health care facilities  
15 specifically included in this Section, nothing in this Act  
16 shall be intended to include facilities operated as a part of  
17 the practice of a physician or other licensed health care  
18 professional, whether practicing in his individual capacity or  
19 within the legal structure of any partnership, medical or  
20 professional corporation, or unincorporated medical or  
21 professional group. Further, this Act shall not apply to  
22 physicians or other licensed health care professional's  
23 practices where such practices are carried out in a portion of  
24 a health care facility under contract with such health care  
25 facility by a physician or by other licensed health care  
26 professionals, whether practicing in his individual capacity

1 or within the legal structure of any partnership, medical or  
2 professional corporation, or unincorporated medical or  
3 professional groups. This Act shall apply to construction or  
4 modification and to establishment by such health care facility  
5 of such contracted portion which is subject to facility  
6 licensing requirements, irrespective of the party responsible  
7 for such action or attendant financial obligation.

8 "Person" means any one or more natural persons, legal  
9 entities, governmental bodies other than federal, or any  
10 combination thereof.

11 "Consumer" means any person other than a person (a) whose  
12 major occupation currently involves or whose official capacity  
13 within the last 12 months has involved the providing,  
14 administering or financing of any type of health care facility,  
15 (b) who is engaged in health research or the teaching of  
16 health, (c) who has a material financial interest in any  
17 activity which involves the providing, administering or  
18 financing of any type of health care facility, or (d) who is or  
19 ever has been a member of the immediate family of the person  
20 defined by (a), (b), or (c).

21 "State Board" means the Health Facilities Planning Board.

22 "Construction or modification" means the establishment,  
23 erection, building, alteration, reconstruction, modernization,  
24 improvement, extension, discontinuation, change of ownership,  
25 of or by a health care facility, or the purchase or acquisition  
26 by or through a health care facility of equipment or service

1 for diagnostic or therapeutic purposes or for facility  
2 administration or operation, or any capital expenditure made by  
3 or on behalf of a health care facility which exceeds the  
4 capital expenditure minimum; however, any capital expenditure  
5 made by or on behalf of a health care facility for (i) the  
6 construction or modification of a facility licensed under the  
7 Assisted Living and Shared Housing Act or (ii) a conversion  
8 project undertaken in accordance with Section 30 of the Older  
9 Adult Services Act shall be excluded from any obligations under  
10 this Act.

11 "Establish" means the construction of a health care  
12 facility or the replacement of an existing facility on another  
13 site.

14 "Major medical equipment" means medical equipment which is  
15 used for the provision of medical and other health services and  
16 which costs in excess of the capital expenditure minimum,  
17 except that such term does not include medical equipment  
18 acquired by or on behalf of a clinical laboratory to provide  
19 clinical laboratory services if the clinical laboratory is  
20 independent of a physician's office and a hospital and it has  
21 been determined under Title XVIII of the Social Security Act to  
22 meet the requirements of paragraphs (10) and (11) of Section  
23 1861(s) of such Act. In determining whether medical equipment  
24 has a value in excess of the capital expenditure minimum, the  
25 value of studies, surveys, designs, plans, working drawings,  
26 specifications, and other activities essential to the

1 acquisition of such equipment shall be included.

2 "Capital Expenditure" means an expenditure: (A) made by or  
3 on behalf of a health care facility (as such a facility is  
4 defined in this Act); and (B) which under generally accepted  
5 accounting principles is not properly chargeable as an expense  
6 of operation and maintenance, or is made to obtain by lease or  
7 comparable arrangement any facility or part thereof or any  
8 equipment for a facility or part; and which exceeds the capital  
9 expenditure minimum.

10 For the purpose of this paragraph, the cost of any studies,  
11 surveys, designs, plans, working drawings, specifications, and  
12 other activities essential to the acquisition, improvement,  
13 expansion, or replacement of any plant or equipment with  
14 respect to which an expenditure is made shall be included in  
15 determining if such expenditure exceeds the capital  
16 expenditures minimum. Donations of equipment or facilities to a  
17 health care facility which if acquired directly by such  
18 facility would be subject to review under this Act shall be  
19 considered capital expenditures, and a transfer of equipment or  
20 facilities for less than fair market value shall be considered  
21 a capital expenditure for purposes of this Act if a transfer of  
22 the equipment or facilities at fair market value would be  
23 subject to review.

24 "Capital expenditure minimum" means \$6,000,000, which  
25 shall be annually adjusted to reflect the increase in  
26 construction costs due to inflation, for major medical

1 equipment and for all other capital expenditures; provided,  
2 however, that when a capital expenditure is for the  
3 construction or modification of a health and fitness center,  
4 "capital expenditure minimum" means the capital expenditure  
5 minimum for all other capital expenditures in effect on March  
6 1, 2000, which shall be annually adjusted to reflect the  
7 increase in construction costs due to inflation.

8 "Non-clinical service area" means an area (i) for the  
9 benefit of the patients, visitors, staff, or employees of a  
10 health care facility and (ii) not directly related to the  
11 diagnosis, treatment, or rehabilitation of persons receiving  
12 services from the health care facility. "Non-clinical service  
13 areas" include, but are not limited to, chapels; gift shops;  
14 news stands; computer systems; tunnels, walkways, and  
15 elevators; telephone systems; projects to comply with life  
16 safety codes; educational facilities; student housing;  
17 patient, employee, staff, and visitor dining areas;  
18 administration and volunteer offices; modernization of  
19 structural components (such as roof replacement and masonry  
20 work); boiler repair or replacement; vehicle maintenance and  
21 storage facilities; parking facilities; mechanical systems for  
22 heating, ventilation, and air conditioning; loading docks; and  
23 repair or replacement of carpeting, tile, wall coverings,  
24 window coverings or treatments, or furniture. Solely for the  
25 purpose of this definition, "non-clinical service area" does  
26 not include health and fitness centers.

1 "Areawide" means a major area of the State delineated on a  
2 geographic, demographic, and functional basis for health  
3 planning and for health service and having within it one or  
4 more local areas for health planning and health service. The  
5 term "region", as contrasted with the term "subregion", and the  
6 word "area" may be used synonymously with the term "areawide".

7 "Local" means a subarea of a delineated major area that on  
8 a geographic, demographic, and functional basis may be  
9 considered to be part of such major area. The term "subregion"  
10 may be used synonymously with the term "local".

11 "Areawide health planning organization" or "Comprehensive  
12 health planning organization" means the health systems agency  
13 designated by the Secretary, Department of Health and Human  
14 Services or any successor agency.

15 "Local health planning organization" means those local  
16 health planning organizations that are designated as such by  
17 the areawide health planning organization of the appropriate  
18 area.

19 "Physician" means a person licensed to practice in  
20 accordance with the Medical Practice Act of 1987, as amended.

21 "Licensed health care professional" means a person  
22 licensed to practice a health profession under pertinent  
23 licensing statutes of the State of Illinois.

24 "Director" means the Director of the Illinois Department of  
25 Public Health.

26 "Agency" means the Illinois Department of Public Health.

1 "Comprehensive health planning" means health planning  
2 concerned with the total population and all health and  
3 associated problems that affect the well-being of people and  
4 that encompasses health services, health manpower, and health  
5 facilities; and the coordination among these and with those  
6 social, economic, and environmental factors that affect  
7 health.

8 "Alternative health care model" means a facility or program  
9 authorized under the Alternative Health Care Delivery Act.

10 "Out-of-state facility" means a person that is both (i)  
11 licensed as a hospital or as an ambulatory surgery center under  
12 the laws of another state or that qualifies as a hospital or an  
13 ambulatory surgery center under regulations adopted pursuant  
14 to the Social Security Act and (ii) not licensed under the  
15 Ambulatory Surgical Treatment Center Act, the Hospital  
16 Licensing Act, or the Nursing Home Care Act. Affiliates of  
17 out-of-state facilities shall be considered out-of-state  
18 facilities. Affiliates of Illinois licensed health care  
19 facilities 100% owned by an Illinois licensed health care  
20 facility, its parent, or Illinois physicians licensed to  
21 practice medicine in all its branches shall not be considered  
22 out-of-state facilities. Nothing in this definition shall be  
23 construed to include an office or any part of an office of a  
24 physician licensed to practice medicine in all its branches in  
25 Illinois that is not required to be licensed under the  
26 Ambulatory Surgical Treatment Center Act.

1 "Change of ownership of a health care facility" means a  
2 change in the person who has ownership or control of a health  
3 care facility's physical plant and capital assets. A change in  
4 ownership is indicated by the following transactions: sale,  
5 transfer, acquisition, lease, change of sponsorship, or other  
6 means of transferring control.

7 "Related person" means any person that: (i) is at least 50%  
8 owned, directly or indirectly, by either the health care  
9 facility or a person owning, directly or indirectly, at least  
10 50% of the health care facility; or (ii) owns, directly or  
11 indirectly, at least 50% of the health care facility.

12 "Charity care" means care provided by a health care  
13 facility for which the provider does not expect to receive  
14 payment from the patient or a third-party payer.

15 "Freestanding emergency center" means a facility subject  
16 to licensure under Section 32.5 of the Emergency Medical  
17 Services (EMS) Systems Act.

18 (Source: P.A. 94-342, eff. 7-26-05; 95-331, eff. 8-21-07;  
19 95-543, eff. 8-28-07; 95-584, eff. 8-31-07; 95-727, eff.  
20 6-30-08; 95-876, eff. 8-21-08.)

21 (20 ILCS 3960/12) (from Ch. 111 1/2, par. 1162)

22 (Section scheduled to be repealed on July 1, 2009)

23 Sec. 12. Powers and duties of State Board. For purposes of  
24 this Act, the State Board shall exercise the following powers  
25 and duties:

1           (1) Prescribe rules, regulations, standards, criteria,  
2 procedures or reviews which may vary according to the purpose  
3 for which a particular review is being conducted or the type of  
4 project reviewed and which are required to carry out the  
5 provisions and purposes of this Act.

6           (2) Adopt procedures for public notice and hearing on all  
7 proposed rules, regulations, standards, criteria, and plans  
8 required to carry out the provisions of this Act.

9           (3) Prescribe criteria for recognition for areawide health  
10 planning organizations, including, but not limited to,  
11 standards for evaluating the scientific bases for judgments on  
12 need and procedure for making these determinations.

13           (4) Develop criteria and standards for health care  
14 facilities planning, conduct statewide inventories of health  
15 care facilities, maintain an updated inventory on the  
16 Department's web site reflecting the most recent bed and  
17 service changes and updated need determinations when new census  
18 data become available or new need formulae are adopted, and  
19 develop health care facility plans which shall be utilized in  
20 the review of applications for permit under this Act. Such  
21 health facility plans shall be coordinated by the Agency with  
22 the health care facility plans areawide health planning  
23 organizations and with other pertinent State Plans.  
24 Inventories pursuant to this Section of skilled or intermediate  
25 care facilities licensed under the Nursing Home Care Act or the  
26 MR/DD Community Care Act or nursing homes licensed under the

1 Hospital Licensing Act shall be conducted on an annual basis no  
2 later than July 1 of each year and shall include among the  
3 information requested a list of all services provided by a  
4 facility to its residents and to the community at large and  
5 differentiate between active and inactive beds.

6 In developing health care facility plans, the State Board  
7 shall consider, but shall not be limited to, the following:

8 (a) The size, composition and growth of the population  
9 of the area to be served;

10 (b) The number of existing and planned facilities  
11 offering similar programs;

12 (c) The extent of utilization of existing facilities;

13 (d) The availability of facilities which may serve as  
14 alternatives or substitutes;

15 (e) The availability of personnel necessary to the  
16 operation of the facility;

17 (f) Multi-institutional planning and the establishment  
18 of multi-institutional systems where feasible;

19 (g) The financial and economic feasibility of proposed  
20 construction or modification; and

21 (h) In the case of health care facilities established  
22 by a religious body or denomination, the needs of the  
23 members of such religious body or denomination may be  
24 considered to be public need.

25 The health care facility plans which are developed and  
26 adopted in accordance with this Section shall form the basis

1 for the plan of the State to deal most effectively with  
2 statewide health needs in regard to health care facilities.

3 (5) Coordinate with other state agencies having  
4 responsibilities affecting health care facilities, including  
5 those of licensure and cost reporting.

6 (6) Solicit, accept, hold and administer on behalf of the  
7 State any grants or bequests of money, securities or property  
8 for use by the State Board or recognized areawide health  
9 planning organizations in the administration of this Act; and  
10 enter into contracts consistent with the appropriations for  
11 purposes enumerated in this Act.

12 (7) The State Board shall prescribe, in consultation with  
13 the recognized areawide health planning organizations,  
14 procedures for review, standards, and criteria which shall be  
15 utilized to make periodic areawide reviews and determinations  
16 of the appropriateness of any existing health services being  
17 rendered by health care facilities subject to the Act. The  
18 State Board shall consider recommendations of the areawide  
19 health planning organization and the Agency in making its  
20 determinations.

21 (8) Prescribe, in consultation with the recognized  
22 areawide health planning organizations, rules, regulations,  
23 standards, and criteria for the conduct of an expeditious  
24 review of applications for permits for projects of construction  
25 or modification of a health care facility, which projects are  
26 non-substantive in nature. Such rules shall not abridge the

1 right of areawide health planning organizations to make  
2 recommendations on the classification and approval of  
3 projects, nor shall such rules prevent the conduct of a public  
4 hearing upon the timely request of an interested party. Such  
5 reviews shall not exceed 60 days from the date the application  
6 is declared to be complete by the Agency.

7 (9) Prescribe rules, regulations, standards, and criteria  
8 pertaining to the granting of permits for construction and  
9 modifications which are emergent in nature and must be  
10 undertaken immediately to prevent or correct structural  
11 deficiencies or hazardous conditions that may harm or injure  
12 persons using the facility, as defined in the rules and  
13 regulations of the State Board. This procedure is exempt from  
14 public hearing requirements of this Act.

15 (10) Prescribe rules, regulations, standards and criteria  
16 for the conduct of an expeditious review, not exceeding 60  
17 days, of applications for permits for projects to construct or  
18 modify health care facilities which are needed for the care and  
19 treatment of persons who have acquired immunodeficiency  
20 syndrome (AIDS) or related conditions.

21 (Source: P.A. 93-41, eff. 6-27-03; 94-983, eff. 6-30-06.)

22 (20 ILCS 3960/13) (from Ch. 111 1/2, par. 1163)

23 (Section scheduled to be repealed on July 1, 2009)

24 Sec. 13. Investigation of applications for permits and  
25 certificates of recognition. The Agency or the State Board

1 shall make or cause to be made such investigations as it or the  
2 State Board deems necessary in connection with an application  
3 for a permit or an application for a certificate of  
4 recognition, or in connection with a determination of whether  
5 or not construction or modification which has been commenced is  
6 in accord with the permit issued by the State Board or whether  
7 construction or modification has been commenced without a  
8 permit having been obtained. The State Board may issue  
9 subpoenas duces tecum requiring the production of records and  
10 may administer oaths to such witnesses.

11 Any circuit court of this State, upon the application of  
12 the State Board or upon the application of any party to such  
13 proceedings, may, in its discretion, compel the attendance of  
14 witnesses, the production of books, papers, records, or  
15 memoranda and the giving of testimony before the State Board,  
16 by a proceeding as for contempt, or otherwise, in the same  
17 manner as production of evidence may be compelled before the  
18 court.

19 The State Board shall require all health facilities  
20 operating in this State to provide such reasonable reports at  
21 such times and containing such information as is needed by it  
22 to carry out the purposes and provisions of this Act. Prior to  
23 collecting information from health facilities, the State Board  
24 shall make reasonable efforts through a public process to  
25 consult with health facilities and associations that represent  
26 them to determine whether data and information requests will

1 result in useful information for health planning, whether  
2 sufficient information is available from other sources, and  
3 whether data requested is routinely collected by health  
4 facilities and is available without retrospective record  
5 review. Data and information requests shall not impose undue  
6 paperwork burdens on health care facilities and personnel.  
7 Health facilities not complying with this requirement shall be  
8 reported to licensing, accrediting, certifying, or payment  
9 agencies as being in violation of State law. Health care  
10 facilities and other parties at interest shall have reasonable  
11 access, under rules established by the State Board, to all  
12 planning information submitted in accord with this Act  
13 pertaining to their area.

14 Among the reports to be required by the State Board are  
15 facility questionnaires for health care facilities licensed  
16 under the Ambulatory Surgical Treatment Center Act, the  
17 Hospital Licensing Act, the Nursing Home Care Act, the MR/DD  
18 Community Care Act, or the End Stage Renal Disease Facility  
19 Act. These questionnaires shall be conducted on an annual basis  
20 and compiled by the Agency. For health care facilities licensed  
21 under the Nursing Home Care Act or the MR/DD Community Care  
22 Act, these reports shall include, but not be limited to, the  
23 identification of specialty services provided by the facility  
24 to patients, residents, and the community at large. For health  
25 care facilities that contain long term care beds, the reports  
26 shall also include the number of staffed long term care beds,

1 physical capacity for long term care beds at the facility, and  
2 long term care beds available for immediate occupancy. For  
3 purposes of this paragraph, "long term care beds" means beds  
4 (i) licensed under the Nursing Home Care Act or the MR/DD  
5 Community Care Act or (ii) licensed under the Hospital  
6 Licensing Act and certified as skilled nursing or nursing  
7 facility beds under Medicaid or Medicare.

8 (Source: P.A. 93-41, eff. 6-27-03; 94-983, eff. 6-30-06.)

9 (20 ILCS 3960/14.1)

10 (Section scheduled to be repealed on July 1, 2009)

11 Sec. 14.1. Denial of permit; other sanctions.

12 (a) The State Board may deny an application for a permit or  
13 may revoke or take other action as permitted by this Act with  
14 regard to a permit as the State Board deems appropriate,  
15 including the imposition of fines as set forth in this Section,  
16 for any one or a combination of the following:

17 (1) The acquisition of major medical equipment without  
18 a permit or in violation of the terms of a permit.

19 (2) The establishment, construction, or modification  
20 of a health care facility without a permit or in violation  
21 of the terms of a permit.

22 (3) The violation of any provision of this Act or any  
23 rule adopted under this Act.

24 (4) The failure, by any person subject to this Act, to  
25 provide information requested by the State Board or Agency

1 within 30 days after a formal written request for the  
2 information.

3 (5) The failure to pay any fine imposed under this  
4 Section within 30 days of its imposition.

5 (a-5) For facilities licensed under the Nursing Home Care  
6 Act or the MR/DD Community Care Act, no permit shall be denied  
7 on the basis of prior operator history, other than for actions  
8 specified under item (2), (4), or (5) of Section 3-117 of the  
9 Nursing Home Care Act or under item (2), (4), or (5) of Section  
10 3-117 of the MR/DD Community Care Act.

11 (b) Persons shall be subject to fines as follows:

12 (1) A permit holder who fails to comply with the  
13 requirements of maintaining a valid permit shall be fined  
14 an amount not to exceed 1% of the approved permit amount  
15 plus an additional 1% of the approved permit amount for  
16 each 30-day period, or fraction thereof, that the violation  
17 continues.

18 (2) A permit holder who alters the scope of an approved  
19 project or whose project costs exceed the allowable permit  
20 amount without first obtaining approval from the State  
21 Board shall be fined an amount not to exceed the sum of (i)  
22 the lesser of \$25,000 or 2% of the approved permit amount  
23 and (ii) in those cases where the approved permit amount is  
24 exceeded by more than \$1,000,000, an additional \$20,000 for  
25 each \$1,000,000, or fraction thereof, in excess of the  
26 approved permit amount.

1           (3) A person who acquires major medical equipment or  
2 who establishes a category of service without first  
3 obtaining a permit or exemption, as the case may be, shall  
4 be fined an amount not to exceed \$10,000 for each such  
5 acquisition or category of service established plus an  
6 additional \$10,000 for each 30-day period, or fraction  
7 thereof, that the violation continues.

8           (4) A person who constructs, modifies, or establishes a  
9 health care facility without first obtaining a permit shall  
10 be fined an amount not to exceed \$25,000 plus an additional  
11 \$25,000 for each 30-day period, or fraction thereof, that  
12 the violation continues.

13           (5) A person who discontinues a health care facility or  
14 a category of service without first obtaining a permit  
15 shall be fined an amount not to exceed \$10,000 plus an  
16 additional \$10,000 for each 30-day period, or fraction  
17 thereof, that the violation continues. For purposes of this  
18 subparagraph (5), facilities licensed under the Nursing  
19 Home Care Act or the MR/DD Community Care Act, with the  
20 exceptions of facilities operated by a county or Illinois  
21 Veterans Homes, are exempt from this permit requirement.  
22 However, facilities licensed under the Nursing Home Care  
23 Act or the MR/DD Community Care Act must comply with  
24 Section 3-423 of the Nursing Home Care Act ~~that~~ or Section  
25 3-423 of the MR/DD Community Care Act and must provide the  
26 Board with 30-days' written notice of its intent to close.

1           (6) A person subject to this Act who fails to provide  
2 information requested by the State Board or Agency within  
3 30 days of a formal written request shall be fined an  
4 amount not to exceed \$1,000 plus an additional \$1,000 for  
5 each 30-day period, or fraction thereof, that the  
6 information is not received by the State Board or Agency.

7           (c) Before imposing any fine authorized under this Section,  
8 the State Board shall afford the person or permit holder, as  
9 the case may be, an appearance before the State Board and an  
10 opportunity for a hearing before a hearing officer appointed by  
11 the State Board. The hearing shall be conducted in accordance  
12 with Section 10.

13           (d) All fines collected under this Act shall be transmitted  
14 to the State Treasurer, who shall deposit them into the  
15 Illinois Health Facilities Planning Fund.

16           (Source: P.A. 95-543, eff. 8-28-07.)

17           Section 90-40. The Innovations in Long-term Care Quality  
18 Grants Act is amended by changing Section 10 as follows:

19           (30 ILCS 772/10)

20           Sec. 10. Eligibility for grant. Grants may only be made to  
21 facilities licensed under the Nursing Home Care Act or the  
22 MR/DD Community Care Act. Grants may only be made for projects  
23 that show innovations and measurable improvement in resident  
24 care, quality of life,

1 (Source: P.A. 92-784, eff. 8-6-02.)

2 Section 90-45. The Illinois Income Tax Act is amended by  
3 changing Section 806 as follows:

4 (35 ILCS 5/806)

5 Sec. 806. Exemption from penalty. An individual taxpayer  
6 shall not be subject to a penalty for failing to pay estimated  
7 tax as required by Section 803 if the taxpayer is 65 years of  
8 age or older and is a permanent resident of a nursing home. For  
9 purposes of this Section, "nursing home" means a skilled  
10 nursing or intermediate long term care facility that is subject  
11 to licensure by the Illinois Department of Public Health under  
12 the Nursing Home Care Act or the MR/DD Community Care Act.

13 (Source: P.A. 90-491, eff. 1-1-98.)

14 Section 90-50. The Use Tax Act is amended by changing  
15 Section 3-5 as follows:

16 (35 ILCS 105/3-5) (from Ch. 120, par. 439.3-5)

17 Sec. 3-5. Exemptions. Use of the following tangible  
18 personal property is exempt from the tax imposed by this Act:

19 (1) Personal property purchased from a corporation,  
20 society, association, foundation, institution, or  
21 organization, other than a limited liability company, that is  
22 organized and operated as a not-for-profit service enterprise

1 for the benefit of persons 65 years of age or older if the  
2 personal property was not purchased by the enterprise for the  
3 purpose of resale by the enterprise.

4 (2) Personal property purchased by a not-for-profit  
5 Illinois county fair association for use in conducting,  
6 operating, or promoting the county fair.

7 (3) Personal property purchased by a not-for-profit arts or  
8 cultural organization that establishes, by proof required by  
9 the Department by rule, that it has received an exemption under  
10 Section 501(c)(3) of the Internal Revenue Code and that is  
11 organized and operated primarily for the presentation or  
12 support of arts or cultural programming, activities, or  
13 services. These organizations include, but are not limited to,  
14 music and dramatic arts organizations such as symphony  
15 orchestras and theatrical groups, arts and cultural service  
16 organizations, local arts councils, visual arts organizations,  
17 and media arts organizations. On and after the effective date  
18 of this amendatory Act of the 92nd General Assembly, however,  
19 an entity otherwise eligible for this exemption shall not make  
20 tax-free purchases unless it has an active identification  
21 number issued by the Department.

22 (4) Personal property purchased by a governmental body, by  
23 a corporation, society, association, foundation, or  
24 institution organized and operated exclusively for charitable,  
25 religious, or educational purposes, or by a not-for-profit  
26 corporation, society, association, foundation, institution, or

1 organization that has no compensated officers or employees and  
2 that is organized and operated primarily for the recreation of  
3 persons 55 years of age or older. A limited liability company  
4 may qualify for the exemption under this paragraph only if the  
5 limited liability company is organized and operated  
6 exclusively for educational purposes. On and after July 1,  
7 1987, however, no entity otherwise eligible for this exemption  
8 shall make tax-free purchases unless it has an active exemption  
9 identification number issued by the Department.

10 (5) Until July 1, 2003, a passenger car that is a  
11 replacement vehicle to the extent that the purchase price of  
12 the car is subject to the Replacement Vehicle Tax.

13 (6) Until July 1, 2003 and beginning again on September 1,  
14 2004, graphic arts machinery and equipment, including repair  
15 and replacement parts, both new and used, and including that  
16 manufactured on special order, certified by the purchaser to be  
17 used primarily for graphic arts production, and including  
18 machinery and equipment purchased for lease. Equipment  
19 includes chemicals or chemicals acting as catalysts but only if  
20 the chemicals or chemicals acting as catalysts effect a direct  
21 and immediate change upon a graphic arts product.

22 (7) Farm chemicals.

23 (8) Legal tender, currency, medallions, or gold or silver  
24 coinage issued by the State of Illinois, the government of the  
25 United States of America, or the government of any foreign  
26 country, and bullion.

1           (9) Personal property purchased from a teacher-sponsored  
2 student organization affiliated with an elementary or  
3 secondary school located in Illinois.

4           (10) A motor vehicle of the first division, a motor vehicle  
5 of the second division that is a self-contained motor vehicle  
6 designed or permanently converted to provide living quarters  
7 for recreational, camping, or travel use, with direct walk  
8 through to the living quarters from the driver's seat, or a  
9 motor vehicle of the second division that is of the van  
10 configuration designed for the transportation of not less than  
11 7 nor more than 16 passengers, as defined in Section 1-146 of  
12 the Illinois Vehicle Code, that is used for automobile renting,  
13 as defined in the Automobile Renting Occupation and Use Tax  
14 Act.

15           (11) Farm machinery and equipment, both new and used,  
16 including that manufactured on special order, certified by the  
17 purchaser to be used primarily for production agriculture or  
18 State or federal agricultural programs, including individual  
19 replacement parts for the machinery and equipment, including  
20 machinery and equipment purchased for lease, and including  
21 implements of husbandry defined in Section 1-130 of the  
22 Illinois Vehicle Code, farm machinery and agricultural  
23 chemical and fertilizer spreaders, and nurse wagons required to  
24 be registered under Section 3-809 of the Illinois Vehicle Code,  
25 but excluding other motor vehicles required to be registered  
26 under the Illinois Vehicle Code. Horticultural polyhouses or

1 hoop houses used for propagating, growing, or overwintering  
2 plants shall be considered farm machinery and equipment under  
3 this item (11). Agricultural chemical tender tanks and dry  
4 boxes shall include units sold separately from a motor vehicle  
5 required to be licensed and units sold mounted on a motor  
6 vehicle required to be licensed if the selling price of the  
7 tender is separately stated.

8 Farm machinery and equipment shall include precision  
9 farming equipment that is installed or purchased to be  
10 installed on farm machinery and equipment including, but not  
11 limited to, tractors, harvesters, sprayers, planters, seeders,  
12 or spreaders. Precision farming equipment includes, but is not  
13 limited to, soil testing sensors, computers, monitors,  
14 software, global positioning and mapping systems, and other  
15 such equipment.

16 Farm machinery and equipment also includes computers,  
17 sensors, software, and related equipment used primarily in the  
18 computer-assisted operation of production agriculture  
19 facilities, equipment, and activities such as, but not limited  
20 to, the collection, monitoring, and correlation of animal and  
21 crop data for the purpose of formulating animal diets and  
22 agricultural chemicals. This item (11) is exempt from the  
23 provisions of Section 3-90.

24 (12) Fuel and petroleum products sold to or used by an air  
25 common carrier, certified by the carrier to be used for  
26 consumption, shipment, or storage in the conduct of its

1 business as an air common carrier, for a flight destined for or  
2 returning from a location or locations outside the United  
3 States without regard to previous or subsequent domestic  
4 stopovers.

5 (13) Proceeds of mandatory service charges separately  
6 stated on customers' bills for the purchase and consumption of  
7 food and beverages purchased at retail from a retailer, to the  
8 extent that the proceeds of the service charge are in fact  
9 turned over as tips or as a substitute for tips to the  
10 employees who participate directly in preparing, serving,  
11 hosting or cleaning up the food or beverage function with  
12 respect to which the service charge is imposed.

13 (14) Until July 1, 2003, oil field exploration, drilling,  
14 and production equipment, including (i) rigs and parts of rigs,  
15 rotary rigs, cable tool rigs, and workover rigs, (ii) pipe and  
16 tubular goods, including casing and drill strings, (iii) pumps  
17 and pump-jack units, (iv) storage tanks and flow lines, (v) any  
18 individual replacement part for oil field exploration,  
19 drilling, and production equipment, and (vi) machinery and  
20 equipment purchased for lease; but excluding motor vehicles  
21 required to be registered under the Illinois Vehicle Code.

22 (15) Photoprocessing machinery and equipment, including  
23 repair and replacement parts, both new and used, including that  
24 manufactured on special order, certified by the purchaser to be  
25 used primarily for photoprocessing, and including  
26 photoprocessing machinery and equipment purchased for lease.

1           (16) Until July 1, 2003, coal exploration, mining,  
2 offhighway hauling, processing, maintenance, and reclamation  
3 equipment, including replacement parts and equipment, and  
4 including equipment purchased for lease, but excluding motor  
5 vehicles required to be registered under the Illinois Vehicle  
6 Code.

7           (17) Until July 1, 2003, distillation machinery and  
8 equipment, sold as a unit or kit, assembled or installed by the  
9 retailer, certified by the user to be used only for the  
10 production of ethyl alcohol that will be used for consumption  
11 as motor fuel or as a component of motor fuel for the personal  
12 use of the user, and not subject to sale or resale.

13           (18) Manufacturing and assembling machinery and equipment  
14 used primarily in the process of manufacturing or assembling  
15 tangible personal property for wholesale or retail sale or  
16 lease, whether that sale or lease is made directly by the  
17 manufacturer or by some other person, whether the materials  
18 used in the process are owned by the manufacturer or some other  
19 person, or whether that sale or lease is made apart from or as  
20 an incident to the seller's engaging in the service occupation  
21 of producing machines, tools, dies, jigs, patterns, gauges, or  
22 other similar items of no commercial value on special order for  
23 a particular purchaser.

24           (19) Personal property delivered to a purchaser or  
25 purchaser's donee inside Illinois when the purchase order for  
26 that personal property was received by a florist located

1 outside Illinois who has a florist located inside Illinois  
2 deliver the personal property.

3 (20) Semen used for artificial insemination of livestock  
4 for direct agricultural production.

5 (21) Horses, or interests in horses, registered with and  
6 meeting the requirements of any of the Arabian Horse Club  
7 Registry of America, Appaloosa Horse Club, American Quarter  
8 Horse Association, United States Trotting Association, or  
9 Jockey Club, as appropriate, used for purposes of breeding or  
10 racing for prizes. This item (21) is exempt from the provisions  
11 of Section 3-90, and the exemption provided for under this item  
12 (21) applies for all periods beginning May 30, 1995, but no  
13 claim for credit or refund is allowed on or after January 1,  
14 2008 for such taxes paid during the period beginning May 30,  
15 2000 and ending on January 1, 2008.

16 (22) Computers and communications equipment utilized for  
17 any hospital purpose and equipment used in the diagnosis,  
18 analysis, or treatment of hospital patients purchased by a  
19 lessor who leases the equipment, under a lease of one year or  
20 longer executed or in effect at the time the lessor would  
21 otherwise be subject to the tax imposed by this Act, to a  
22 hospital that has been issued an active tax exemption  
23 identification number by the Department under Section 1g of the  
24 Retailers' Occupation Tax Act. If the equipment is leased in a  
25 manner that does not qualify for this exemption or is used in  
26 any other non-exempt manner, the lessor shall be liable for the

1 tax imposed under this Act or the Service Use Tax Act, as the  
2 case may be, based on the fair market value of the property at  
3 the time the non-qualifying use occurs. No lessor shall collect  
4 or attempt to collect an amount (however designated) that  
5 purports to reimburse that lessor for the tax imposed by this  
6 Act or the Service Use Tax Act, as the case may be, if the tax  
7 has not been paid by the lessor. If a lessor improperly  
8 collects any such amount from the lessee, the lessee shall have  
9 a legal right to claim a refund of that amount from the lessor.  
10 If, however, that amount is not refunded to the lessee for any  
11 reason, the lessor is liable to pay that amount to the  
12 Department.

13 (23) Personal property purchased by a lessor who leases the  
14 property, under a lease of one year or longer executed or in  
15 effect at the time the lessor would otherwise be subject to the  
16 tax imposed by this Act, to a governmental body that has been  
17 issued an active sales tax exemption identification number by  
18 the Department under Section 1g of the Retailers' Occupation  
19 Tax Act. If the property is leased in a manner that does not  
20 qualify for this exemption or used in any other non-exempt  
21 manner, the lessor shall be liable for the tax imposed under  
22 this Act or the Service Use Tax Act, as the case may be, based  
23 on the fair market value of the property at the time the  
24 non-qualifying use occurs. No lessor shall collect or attempt  
25 to collect an amount (however designated) that purports to  
26 reimburse that lessor for the tax imposed by this Act or the

1 Service Use Tax Act, as the case may be, if the tax has not been  
2 paid by the lessor. If a lessor improperly collects any such  
3 amount from the lessee, the lessee shall have a legal right to  
4 claim a refund of that amount from the lessor. If, however,  
5 that amount is not refunded to the lessee for any reason, the  
6 lessor is liable to pay that amount to the Department.

7 (24) Beginning with taxable years ending on or after  
8 December 31, 1995 and ending with taxable years ending on or  
9 before December 31, 2004, personal property that is donated for  
10 disaster relief to be used in a State or federally declared  
11 disaster area in Illinois or bordering Illinois by a  
12 manufacturer or retailer that is registered in this State to a  
13 corporation, society, association, foundation, or institution  
14 that has been issued a sales tax exemption identification  
15 number by the Department that assists victims of the disaster  
16 who reside within the declared disaster area.

17 (25) Beginning with taxable years ending on or after  
18 December 31, 1995 and ending with taxable years ending on or  
19 before December 31, 2004, personal property that is used in the  
20 performance of infrastructure repairs in this State, including  
21 but not limited to municipal roads and streets, access roads,  
22 bridges, sidewalks, waste disposal systems, water and sewer  
23 line extensions, water distribution and purification  
24 facilities, storm water drainage and retention facilities, and  
25 sewage treatment facilities, resulting from a State or  
26 federally declared disaster in Illinois or bordering Illinois

1 when such repairs are initiated on facilities located in the  
2 declared disaster area within 6 months after the disaster.

3 (26) Beginning July 1, 1999, game or game birds purchased  
4 at a "game breeding and hunting preserve area" or an "exotic  
5 game hunting area" as those terms are used in the Wildlife Code  
6 or at a hunting enclosure approved through rules adopted by the  
7 Department of Natural Resources. This paragraph is exempt from  
8 the provisions of Section 3-90.

9 (27) A motor vehicle, as that term is defined in Section  
10 1-146 of the Illinois Vehicle Code, that is donated to a  
11 corporation, limited liability company, society, association,  
12 foundation, or institution that is determined by the Department  
13 to be organized and operated exclusively for educational  
14 purposes. For purposes of this exemption, "a corporation,  
15 limited liability company, society, association, foundation,  
16 or institution organized and operated exclusively for  
17 educational purposes" means all tax-supported public schools,  
18 private schools that offer systematic instruction in useful  
19 branches of learning by methods common to public schools and  
20 that compare favorably in their scope and intensity with the  
21 course of study presented in tax-supported schools, and  
22 vocational or technical schools or institutes organized and  
23 operated exclusively to provide a course of study of not less  
24 than 6 weeks duration and designed to prepare individuals to  
25 follow a trade or to pursue a manual, technical, mechanical,  
26 industrial, business, or commercial occupation.

1           (28) Beginning January 1, 2000, personal property,  
2 including food, purchased through fundraising events for the  
3 benefit of a public or private elementary or secondary school,  
4 a group of those schools, or one or more school districts if  
5 the events are sponsored by an entity recognized by the school  
6 district that consists primarily of volunteers and includes  
7 parents and teachers of the school children. This paragraph  
8 does not apply to fundraising events (i) for the benefit of  
9 private home instruction or (ii) for which the fundraising  
10 entity purchases the personal property sold at the events from  
11 another individual or entity that sold the property for the  
12 purpose of resale by the fundraising entity and that profits  
13 from the sale to the fundraising entity. This paragraph is  
14 exempt from the provisions of Section 3-90.

15           (29) Beginning January 1, 2000 and through December 31,  
16 2001, new or used automatic vending machines that prepare and  
17 serve hot food and beverages, including coffee, soup, and other  
18 items, and replacement parts for these machines. Beginning  
19 January 1, 2002 and through June 30, 2003, machines and parts  
20 for machines used in commercial, coin-operated amusement and  
21 vending business if a use or occupation tax is paid on the  
22 gross receipts derived from the use of the commercial,  
23 coin-operated amusement and vending machines. This paragraph  
24 is exempt from the provisions of Section 3-90.

25           (30) Beginning January 1, 2001 and through June 30, 2011,  
26 food for human consumption that is to be consumed off the

1 premises where it is sold (other than alcoholic beverages, soft  
2 drinks, and food that has been prepared for immediate  
3 consumption) and prescription and nonprescription medicines,  
4 drugs, medical appliances, and insulin, urine testing  
5 materials, syringes, and needles used by diabetics, for human  
6 use, when purchased for use by a person receiving medical  
7 assistance under Article V 5 of the Illinois Public Aid Code  
8 who resides in a licensed long-term care facility, as defined  
9 in the Nursing Home Care Act, or in a licensed facility as  
10 defined in the MR/DD Community Care Act.

11 (31) Beginning on the effective date of this amendatory Act  
12 of the 92nd General Assembly, computers and communications  
13 equipment utilized for any hospital purpose and equipment used  
14 in the diagnosis, analysis, or treatment of hospital patients  
15 purchased by a lessor who leases the equipment, under a lease  
16 of one year or longer executed or in effect at the time the  
17 lessor would otherwise be subject to the tax imposed by this  
18 Act, to a hospital that has been issued an active tax exemption  
19 identification number by the Department under Section 1g of the  
20 Retailers' Occupation Tax Act. If the equipment is leased in a  
21 manner that does not qualify for this exemption or is used in  
22 any other nonexempt manner, the lessor shall be liable for the  
23 tax imposed under this Act or the Service Use Tax Act, as the  
24 case may be, based on the fair market value of the property at  
25 the time the nonqualifying use occurs. No lessor shall collect  
26 or attempt to collect an amount (however designated) that

1 purports to reimburse that lessor for the tax imposed by this  
2 Act or the Service Use Tax Act, as the case may be, if the tax  
3 has not been paid by the lessor. If a lessor improperly  
4 collects any such amount from the lessee, the lessee shall have  
5 a legal right to claim a refund of that amount from the lessor.  
6 If, however, that amount is not refunded to the lessee for any  
7 reason, the lessor is liable to pay that amount to the  
8 Department. This paragraph is exempt from the provisions of  
9 Section 3-90.

10 (32) Beginning on the effective date of this amendatory Act  
11 of the 92nd General Assembly, personal property purchased by a  
12 lessor who leases the property, under a lease of one year or  
13 longer executed or in effect at the time the lessor would  
14 otherwise be subject to the tax imposed by this Act, to a  
15 governmental body that has been issued an active sales tax  
16 exemption identification number by the Department under  
17 Section 1g of the Retailers' Occupation Tax Act. If the  
18 property is leased in a manner that does not qualify for this  
19 exemption or used in any other nonexempt manner, the lessor  
20 shall be liable for the tax imposed under this Act or the  
21 Service Use Tax Act, as the case may be, based on the fair  
22 market value of the property at the time the nonqualifying use  
23 occurs. No lessor shall collect or attempt to collect an amount  
24 (however designated) that purports to reimburse that lessor for  
25 the tax imposed by this Act or the Service Use Tax Act, as the  
26 case may be, if the tax has not been paid by the lessor. If a

1 lessor improperly collects any such amount from the lessee, the  
2 lessee shall have a legal right to claim a refund of that  
3 amount from the lessor. If, however, that amount is not  
4 refunded to the lessee for any reason, the lessor is liable to  
5 pay that amount to the Department. This paragraph is exempt  
6 from the provisions of Section 3-90.

7 (33) On and after July 1, 2003 and through June 30, 2004,  
8 the use in this State of motor vehicles of the second division  
9 with a gross vehicle weight in excess of 8,000 pounds and that  
10 are subject to the commercial distribution fee imposed under  
11 Section 3-815.1 of the Illinois Vehicle Code. Beginning on July  
12 1, 2004 and through June 30, 2005, the use in this State of  
13 motor vehicles of the second division: (i) with a gross vehicle  
14 weight rating in excess of 8,000 pounds; (ii) that are subject  
15 to the commercial distribution fee imposed under Section  
16 3-815.1 of the Illinois Vehicle Code; and (iii) that are  
17 primarily used for commercial purposes. Through June 30, 2005,  
18 this exemption applies to repair and replacement parts added  
19 after the initial purchase of such a motor vehicle if that  
20 motor vehicle is used in a manner that would qualify for the  
21 rolling stock exemption otherwise provided for in this Act. For  
22 purposes of this paragraph, the term "used for commercial  
23 purposes" means the transportation of persons or property in  
24 furtherance of any commercial or industrial enterprise,  
25 whether for-hire or not.

26 (34) Beginning January 1, 2008, tangible personal property

1 used in the construction or maintenance of a community water  
2 supply, as defined under Section 3.145 of the Environmental  
3 Protection Act, that is operated by a not-for-profit  
4 corporation that holds a valid water supply permit issued under  
5 Title IV of the Environmental Protection Act. This paragraph is  
6 exempt from the provisions of Section 3-90.

7 (Source: P.A. 94-1002, eff. 7-3-06; 95-88, eff. 1-1-08; 95-538,  
8 eff. 1-1-08; 95-876, eff. 8-21-08.)

9 Section 90-55. The Service Use Tax Act is amended by  
10 changing Sections 3-5 and 3-10 as follows:

11 (35 ILCS 110/3-5) (from Ch. 120, par. 439.33-5)

12 Sec. 3-5. Exemptions. Use of the following tangible  
13 personal property is exempt from the tax imposed by this Act:

14 (1) Personal property purchased from a corporation,  
15 society, association, foundation, institution, or  
16 organization, other than a limited liability company, that is  
17 organized and operated as a not-for-profit service enterprise  
18 for the benefit of persons 65 years of age or older if the  
19 personal property was not purchased by the enterprise for the  
20 purpose of resale by the enterprise.

21 (2) Personal property purchased by a non-profit Illinois  
22 county fair association for use in conducting, operating, or  
23 promoting the county fair.

24 (3) Personal property purchased by a not-for-profit arts or

1 cultural organization that establishes, by proof required by  
2 the Department by rule, that it has received an exemption under  
3 Section 501(c)(3) of the Internal Revenue Code and that is  
4 organized and operated primarily for the presentation or  
5 support of arts or cultural programming, activities, or  
6 services. These organizations include, but are not limited to,  
7 music and dramatic arts organizations such as symphony  
8 orchestras and theatrical groups, arts and cultural service  
9 organizations, local arts councils, visual arts organizations,  
10 and media arts organizations. On and after the effective date  
11 of this amendatory Act of the 92nd General Assembly, however,  
12 an entity otherwise eligible for this exemption shall not make  
13 tax-free purchases unless it has an active identification  
14 number issued by the Department.

15 (4) Legal tender, currency, medallions, or gold or silver  
16 coinage issued by the State of Illinois, the government of the  
17 United States of America, or the government of any foreign  
18 country, and bullion.

19 (5) Until July 1, 2003 and beginning again on September 1,  
20 2004, graphic arts machinery and equipment, including repair  
21 and replacement parts, both new and used, and including that  
22 manufactured on special order or purchased for lease, certified  
23 by the purchaser to be used primarily for graphic arts  
24 production. Equipment includes chemicals or chemicals acting  
25 as catalysts but only if the chemicals or chemicals acting as  
26 catalysts effect a direct and immediate change upon a graphic

1 arts product.

2 (6) Personal property purchased from a teacher-sponsored  
3 student organization affiliated with an elementary or  
4 secondary school located in Illinois.

5 (7) Farm machinery and equipment, both new and used,  
6 including that manufactured on special order, certified by the  
7 purchaser to be used primarily for production agriculture or  
8 State or federal agricultural programs, including individual  
9 replacement parts for the machinery and equipment, including  
10 machinery and equipment purchased for lease, and including  
11 implements of husbandry defined in Section 1-130 of the  
12 Illinois Vehicle Code, farm machinery and agricultural  
13 chemical and fertilizer spreaders, and nurse wagons required to  
14 be registered under Section 3-809 of the Illinois Vehicle Code,  
15 but excluding other motor vehicles required to be registered  
16 under the Illinois Vehicle Code. Horticultural polyhouses or  
17 hoop houses used for propagating, growing, or overwintering  
18 plants shall be considered farm machinery and equipment under  
19 this item (7). Agricultural chemical tender tanks and dry boxes  
20 shall include units sold separately from a motor vehicle  
21 required to be licensed and units sold mounted on a motor  
22 vehicle required to be licensed if the selling price of the  
23 tender is separately stated.

24 Farm machinery and equipment shall include precision  
25 farming equipment that is installed or purchased to be  
26 installed on farm machinery and equipment including, but not

1 limited to, tractors, harvesters, sprayers, planters, seeders,  
2 or spreaders. Precision farming equipment includes, but is not  
3 limited to, soil testing sensors, computers, monitors,  
4 software, global positioning and mapping systems, and other  
5 such equipment.

6 Farm machinery and equipment also includes computers,  
7 sensors, software, and related equipment used primarily in the  
8 computer-assisted operation of production agriculture  
9 facilities, equipment, and activities such as, but not limited  
10 to, the collection, monitoring, and correlation of animal and  
11 crop data for the purpose of formulating animal diets and  
12 agricultural chemicals. This item (7) is exempt from the  
13 provisions of Section 3-75.

14 (8) Fuel and petroleum products sold to or used by an air  
15 common carrier, certified by the carrier to be used for  
16 consumption, shipment, or storage in the conduct of its  
17 business as an air common carrier, for a flight destined for or  
18 returning from a location or locations outside the United  
19 States without regard to previous or subsequent domestic  
20 stopovers.

21 (9) Proceeds of mandatory service charges separately  
22 stated on customers' bills for the purchase and consumption of  
23 food and beverages acquired as an incident to the purchase of a  
24 service from a serviceman, to the extent that the proceeds of  
25 the service charge are in fact turned over as tips or as a  
26 substitute for tips to the employees who participate directly

1 in preparing, serving, hosting or cleaning up the food or  
2 beverage function with respect to which the service charge is  
3 imposed.

4 (10) Until July 1, 2003, oil field exploration, drilling,  
5 and production equipment, including (i) rigs and parts of rigs,  
6 rotary rigs, cable tool rigs, and workover rigs, (ii) pipe and  
7 tubular goods, including casing and drill strings, (iii) pumps  
8 and pump-jack units, (iv) storage tanks and flow lines, (v) any  
9 individual replacement part for oil field exploration,  
10 drilling, and production equipment, and (vi) machinery and  
11 equipment purchased for lease; but excluding motor vehicles  
12 required to be registered under the Illinois Vehicle Code.

13 (11) Proceeds from the sale of photoprocessing machinery  
14 and equipment, including repair and replacement parts, both new  
15 and used, including that manufactured on special order,  
16 certified by the purchaser to be used primarily for  
17 photoprocessing, and including photoprocessing machinery and  
18 equipment purchased for lease.

19 (12) Until July 1, 2003, coal exploration, mining,  
20 offhighway hauling, processing, maintenance, and reclamation  
21 equipment, including replacement parts and equipment, and  
22 including equipment purchased for lease, but excluding motor  
23 vehicles required to be registered under the Illinois Vehicle  
24 Code.

25 (13) Semen used for artificial insemination of livestock  
26 for direct agricultural production.

1           (14) Horses, or interests in horses, registered with and  
2 meeting the requirements of any of the Arabian Horse Club  
3 Registry of America, Appaloosa Horse Club, American Quarter  
4 Horse Association, United States Trotting Association, or  
5 Jockey Club, as appropriate, used for purposes of breeding or  
6 racing for prizes. This item (14) is exempt from the provisions  
7 of Section 3-75, and the exemption provided for under this item  
8 (14) applies for all periods beginning May 30, 1995, but no  
9 claim for credit or refund is allowed on or after the effective  
10 date of this amendatory Act of the 95th General Assembly for  
11 such taxes paid during the period beginning May 30, 2000 and  
12 ending on the effective date of this amendatory Act of the 95th  
13 General Assembly.

14           (15) Computers and communications equipment utilized for  
15 any hospital purpose and equipment used in the diagnosis,  
16 analysis, or treatment of hospital patients purchased by a  
17 lessor who leases the equipment, under a lease of one year or  
18 longer executed or in effect at the time the lessor would  
19 otherwise be subject to the tax imposed by this Act, to a  
20 hospital that has been issued an active tax exemption  
21 identification number by the Department under Section 1g of the  
22 Retailers' Occupation Tax Act. If the equipment is leased in a  
23 manner that does not qualify for this exemption or is used in  
24 any other non-exempt manner, the lessor shall be liable for the  
25 tax imposed under this Act or the Use Tax Act, as the case may  
26 be, based on the fair market value of the property at the time

1 the non-qualifying use occurs. No lessor shall collect or  
2 attempt to collect an amount (however designated) that purports  
3 to reimburse that lessor for the tax imposed by this Act or the  
4 Use Tax Act, as the case may be, if the tax has not been paid by  
5 the lessor. If a lessor improperly collects any such amount  
6 from the lessee, the lessee shall have a legal right to claim a  
7 refund of that amount from the lessor. If, however, that amount  
8 is not refunded to the lessee for any reason, the lessor is  
9 liable to pay that amount to the Department.

10 (16) Personal property purchased by a lessor who leases the  
11 property, under a lease of one year or longer executed or in  
12 effect at the time the lessor would otherwise be subject to the  
13 tax imposed by this Act, to a governmental body that has been  
14 issued an active tax exemption identification number by the  
15 Department under Section 1g of the Retailers' Occupation Tax  
16 Act. If the property is leased in a manner that does not  
17 qualify for this exemption or is used in any other non-exempt  
18 manner, the lessor shall be liable for the tax imposed under  
19 this Act or the Use Tax Act, as the case may be, based on the  
20 fair market value of the property at the time the  
21 non-qualifying use occurs. No lessor shall collect or attempt  
22 to collect an amount (however designated) that purports to  
23 reimburse that lessor for the tax imposed by this Act or the  
24 Use Tax Act, as the case may be, if the tax has not been paid by  
25 the lessor. If a lessor improperly collects any such amount  
26 from the lessee, the lessee shall have a legal right to claim a

1 refund of that amount from the lessor. If, however, that amount  
2 is not refunded to the lessee for any reason, the lessor is  
3 liable to pay that amount to the Department.

4 (17) Beginning with taxable years ending on or after  
5 December 31, 1995 and ending with taxable years ending on or  
6 before December 31, 2004, personal property that is donated for  
7 disaster relief to be used in a State or federally declared  
8 disaster area in Illinois or bordering Illinois by a  
9 manufacturer or retailer that is registered in this State to a  
10 corporation, society, association, foundation, or institution  
11 that has been issued a sales tax exemption identification  
12 number by the Department that assists victims of the disaster  
13 who reside within the declared disaster area.

14 (18) Beginning with taxable years ending on or after  
15 December 31, 1995 and ending with taxable years ending on or  
16 before December 31, 2004, personal property that is used in the  
17 performance of infrastructure repairs in this State, including  
18 but not limited to municipal roads and streets, access roads,  
19 bridges, sidewalks, waste disposal systems, water and sewer  
20 line extensions, water distribution and purification  
21 facilities, storm water drainage and retention facilities, and  
22 sewage treatment facilities, resulting from a State or  
23 federally declared disaster in Illinois or bordering Illinois  
24 when such repairs are initiated on facilities located in the  
25 declared disaster area within 6 months after the disaster.

26 (19) Beginning July 1, 1999, game or game birds purchased

1 at a "game breeding and hunting preserve area" or an "exotic  
2 game hunting area" as those terms are used in the Wildlife Code  
3 or at a hunting enclosure approved through rules adopted by the  
4 Department of Natural Resources. This paragraph is exempt from  
5 the provisions of Section 3-75.

6 (20) A motor vehicle, as that term is defined in Section  
7 1-146 of the Illinois Vehicle Code, that is donated to a  
8 corporation, limited liability company, society, association,  
9 foundation, or institution that is determined by the Department  
10 to be organized and operated exclusively for educational  
11 purposes. For purposes of this exemption, "a corporation,  
12 limited liability company, society, association, foundation,  
13 or institution organized and operated exclusively for  
14 educational purposes" means all tax-supported public schools,  
15 private schools that offer systematic instruction in useful  
16 branches of learning by methods common to public schools and  
17 that compare favorably in their scope and intensity with the  
18 course of study presented in tax-supported schools, and  
19 vocational or technical schools or institutes organized and  
20 operated exclusively to provide a course of study of not less  
21 than 6 weeks duration and designed to prepare individuals to  
22 follow a trade or to pursue a manual, technical, mechanical,  
23 industrial, business, or commercial occupation.

24 (21) Beginning January 1, 2000, personal property,  
25 including food, purchased through fundraising events for the  
26 benefit of a public or private elementary or secondary school,

1 a group of those schools, or one or more school districts if  
2 the events are sponsored by an entity recognized by the school  
3 district that consists primarily of volunteers and includes  
4 parents and teachers of the school children. This paragraph  
5 does not apply to fundraising events (i) for the benefit of  
6 private home instruction or (ii) for which the fundraising  
7 entity purchases the personal property sold at the events from  
8 another individual or entity that sold the property for the  
9 purpose of resale by the fundraising entity and that profits  
10 from the sale to the fundraising entity. This paragraph is  
11 exempt from the provisions of Section 3-75.

12 (22) Beginning January 1, 2000 and through December 31,  
13 2001, new or used automatic vending machines that prepare and  
14 serve hot food and beverages, including coffee, soup, and other  
15 items, and replacement parts for these machines. Beginning  
16 January 1, 2002 and through June 30, 2003, machines and parts  
17 for machines used in commercial, coin-operated amusement and  
18 vending business if a use or occupation tax is paid on the  
19 gross receipts derived from the use of the commercial,  
20 coin-operated amusement and vending machines. This paragraph  
21 is exempt from the provisions of Section 3-75.

22 (23) Beginning August 23, 2001 and through June 30, 2011,  
23 food for human consumption that is to be consumed off the  
24 premises where it is sold (other than alcoholic beverages, soft  
25 drinks, and food that has been prepared for immediate  
26 consumption) and prescription and nonprescription medicines,

1 drugs, medical appliances, and insulin, urine testing  
2 materials, syringes, and needles used by diabetics, for human  
3 use, when purchased for use by a person receiving medical  
4 assistance under Article V 5 of the Illinois Public Aid Code  
5 who resides in a licensed long-term care facility, as defined  
6 in the Nursing Home Care Act, or in a licensed facility as  
7 defined in the MR/DD Community Care Act.

8 (24) Beginning on the effective date of this amendatory Act  
9 of the 92nd General Assembly, computers and communications  
10 equipment utilized for any hospital purpose and equipment used  
11 in the diagnosis, analysis, or treatment of hospital patients  
12 purchased by a lessor who leases the equipment, under a lease  
13 of one year or longer executed or in effect at the time the  
14 lessor would otherwise be subject to the tax imposed by this  
15 Act, to a hospital that has been issued an active tax exemption  
16 identification number by the Department under Section 1g of the  
17 Retailers' Occupation Tax Act. If the equipment is leased in a  
18 manner that does not qualify for this exemption or is used in  
19 any other nonexempt manner, the lessor shall be liable for the  
20 tax imposed under this Act or the Use Tax Act, as the case may  
21 be, based on the fair market value of the property at the time  
22 the nonqualifying use occurs. No lessor shall collect or  
23 attempt to collect an amount (however designated) that purports  
24 to reimburse that lessor for the tax imposed by this Act or the  
25 Use Tax Act, as the case may be, if the tax has not been paid by  
26 the lessor. If a lessor improperly collects any such amount

1 from the lessee, the lessee shall have a legal right to claim a  
2 refund of that amount from the lessor. If, however, that amount  
3 is not refunded to the lessee for any reason, the lessor is  
4 liable to pay that amount to the Department. This paragraph is  
5 exempt from the provisions of Section 3-75.

6 (25) Beginning on the effective date of this amendatory Act  
7 of the 92nd General Assembly, personal property purchased by a  
8 lessor who leases the property, under a lease of one year or  
9 longer executed or in effect at the time the lessor would  
10 otherwise be subject to the tax imposed by this Act, to a  
11 governmental body that has been issued an active tax exemption  
12 identification number by the Department under Section 1g of the  
13 Retailers' Occupation Tax Act. If the property is leased in a  
14 manner that does not qualify for this exemption or is used in  
15 any other nonexempt manner, the lessor shall be liable for the  
16 tax imposed under this Act or the Use Tax Act, as the case may  
17 be, based on the fair market value of the property at the time  
18 the nonqualifying use occurs. No lessor shall collect or  
19 attempt to collect an amount (however designated) that purports  
20 to reimburse that lessor for the tax imposed by this Act or the  
21 Use Tax Act, as the case may be, if the tax has not been paid by  
22 the lessor. If a lessor improperly collects any such amount  
23 from the lessee, the lessee shall have a legal right to claim a  
24 refund of that amount from the lessor. If, however, that amount  
25 is not refunded to the lessee for any reason, the lessor is  
26 liable to pay that amount to the Department. This paragraph is

1 exempt from the provisions of Section 3-75.

2 (26) Beginning January 1, 2008, tangible personal property  
3 used in the construction or maintenance of a community water  
4 supply, as defined under Section 3.145 of the Environmental  
5 Protection Act, that is operated by a not-for-profit  
6 corporation that holds a valid water supply permit issued under  
7 Title IV of the Environmental Protection Act. This paragraph is  
8 exempt from the provisions of Section 3-75.

9 (Source: P.A. 94-1002, eff. 7-3-06; 95-88, eff. 1-1-08; 95-538,  
10 eff. 1-1-08; 95-876, eff. 8-21-08.)

11 (35 ILCS 110/3-10) (from Ch. 120, par. 439.33-10)

12 Sec. 3-10. Rate of tax. Unless otherwise provided in this  
13 Section, the tax imposed by this Act is at the rate of 6.25% of  
14 the selling price of tangible personal property transferred as  
15 an incident to the sale of service, but, for the purpose of  
16 computing this tax, in no event shall the selling price be less  
17 than the cost price of the property to the serviceman.

18 Beginning on July 1, 2000 and through December 31, 2000,  
19 with respect to motor fuel, as defined in Section 1.1 of the  
20 Motor Fuel Tax Law, and gasohol, as defined in Section 3-40 of  
21 the Use Tax Act, the tax is imposed at the rate of 1.25%.

22 With respect to gasohol, as defined in the Use Tax Act, the  
23 tax imposed by this Act applies to (i) 70% of the selling price  
24 of property transferred as an incident to the sale of service  
25 on or after January 1, 1990, and before July 1, 2003, (ii) 80%

1 of the selling price of property transferred as an incident to  
2 the sale of service on or after July 1, 2003 and on or before  
3 December 31, 2013, and (iii) 100% of the selling price  
4 thereafter. If, at any time, however, the tax under this Act on  
5 sales of gasohol, as defined in the Use Tax Act, is imposed at  
6 the rate of 1.25%, then the tax imposed by this Act applies to  
7 100% of the proceeds of sales of gasohol made during that time.

8 With respect to majority blended ethanol fuel, as defined  
9 in the Use Tax Act, the tax imposed by this Act does not apply  
10 to the selling price of property transferred as an incident to  
11 the sale of service on or after July 1, 2003 and on or before  
12 December 31, 2013 but applies to 100% of the selling price  
13 thereafter.

14 With respect to biodiesel blends, as defined in the Use Tax  
15 Act, with no less than 1% and no more than 10% biodiesel, the  
16 tax imposed by this Act applies to (i) 80% of the selling price  
17 of property transferred as an incident to the sale of service  
18 on or after July 1, 2003 and on or before December 31, 2013 and  
19 (ii) 100% of the proceeds of the selling price thereafter. If,  
20 at any time, however, the tax under this Act on sales of  
21 biodiesel blends, as defined in the Use Tax Act, with no less  
22 than 1% and no more than 10% biodiesel is imposed at the rate  
23 of 1.25%, then the tax imposed by this Act applies to 100% of  
24 the proceeds of sales of biodiesel blends with no less than 1%  
25 and no more than 10% biodiesel made during that time.

26 With respect to 100% biodiesel, as defined in the Use Tax

1 Act, and biodiesel blends, as defined in the Use Tax Act, with  
2 more than 10% but no more than 99% biodiesel, the tax imposed  
3 by this Act does not apply to the proceeds of the selling price  
4 of property transferred as an incident to the sale of service  
5 on or after July 1, 2003 and on or before December 31, 2013 but  
6 applies to 100% of the selling price thereafter.

7 At the election of any registered serviceman made for each  
8 fiscal year, sales of service in which the aggregate annual  
9 cost price of tangible personal property transferred as an  
10 incident to the sales of service is less than 35%, or 75% in  
11 the case of servicemen transferring prescription drugs or  
12 servicemen engaged in graphic arts production, of the aggregate  
13 annual total gross receipts from all sales of service, the tax  
14 imposed by this Act shall be based on the serviceman's cost  
15 price of the tangible personal property transferred as an  
16 incident to the sale of those services.

17 The tax shall be imposed at the rate of 1% on food prepared  
18 for immediate consumption and transferred incident to a sale of  
19 service subject to this Act or the Service Occupation Tax Act  
20 by an entity licensed under the Hospital Licensing Act, the  
21 Nursing Home Care Act, the MR/DD Community Care Act, or the  
22 Child Care Act of 1969. The tax shall also be imposed at the  
23 rate of 1% on food for human consumption that is to be consumed  
24 off the premises where it is sold (other than alcoholic  
25 beverages, soft drinks, and food that has been prepared for  
26 immediate consumption and is not otherwise included in this

1 paragraph) and prescription and nonprescription medicines,  
2 drugs, medical appliances, modifications to a motor vehicle for  
3 the purpose of rendering it usable by a disabled person, and  
4 insulin, urine testing materials, syringes, and needles used by  
5 diabetics, for human use. For the purposes of this Section, the  
6 term "soft drinks" means any complete, finished, ready-to-use,  
7 non-alcoholic drink, whether carbonated or not, including but  
8 not limited to soda water, cola, fruit juice, vegetable juice,  
9 carbonated water, and all other preparations commonly known as  
10 soft drinks of whatever kind or description that are contained  
11 in any closed or sealed bottle, can, carton, or container,  
12 regardless of size. "Soft drinks" does not include coffee, tea,  
13 non-carbonated water, infant formula, milk or milk products as  
14 defined in the Grade A Pasteurized Milk and Milk Products Act,  
15 or drinks containing 50% or more natural fruit or vegetable  
16 juice.

17 Notwithstanding any other provisions of this Act, "food for  
18 human consumption that is to be consumed off the premises where  
19 it is sold" includes all food sold through a vending machine,  
20 except soft drinks and food products that are dispensed hot  
21 from a vending machine, regardless of the location of the  
22 vending machine.

23 If the property that is acquired from a serviceman is  
24 acquired outside Illinois and used outside Illinois before  
25 being brought to Illinois for use here and is taxable under  
26 this Act, the "selling price" on which the tax is computed

1 shall be reduced by an amount that represents a reasonable  
2 allowance for depreciation for the period of prior out-of-state  
3 use.

4 (Source: P.A. 93-17, eff. 6-11-03.)

5 Section 90-60. The Service Occupation Tax Act is amended by  
6 changing Sections 3-5 and 3-10 as follows:

7 (35 ILCS 115/3-5) (from Ch. 120, par. 439.103-5)

8 Sec. 3-5. Exemptions. The following tangible personal  
9 property is exempt from the tax imposed by this Act:

10 (1) Personal property sold by a corporation, society,  
11 association, foundation, institution, or organization, other  
12 than a limited liability company, that is organized and  
13 operated as a not-for-profit service enterprise for the benefit  
14 of persons 65 years of age or older if the personal property  
15 was not purchased by the enterprise for the purpose of resale  
16 by the enterprise.

17 (2) Personal property purchased by a not-for-profit  
18 Illinois county fair association for use in conducting,  
19 operating, or promoting the county fair.

20 (3) Personal property purchased by any not-for-profit arts  
21 or cultural organization that establishes, by proof required by  
22 the Department by rule, that it has received an exemption under  
23 Section 501(c)(3) of the Internal Revenue Code and that is  
24 organized and operated primarily for the presentation or

1 support of arts or cultural programming, activities, or  
2 services. These organizations include, but are not limited to,  
3 music and dramatic arts organizations such as symphony  
4 orchestras and theatrical groups, arts and cultural service  
5 organizations, local arts councils, visual arts organizations,  
6 and media arts organizations. On and after the effective date  
7 of this amendatory Act of the 92nd General Assembly, however,  
8 an entity otherwise eligible for this exemption shall not make  
9 tax-free purchases unless it has an active identification  
10 number issued by the Department.

11 (4) Legal tender, currency, medallions, or gold or silver  
12 coinage issued by the State of Illinois, the government of the  
13 United States of America, or the government of any foreign  
14 country, and bullion.

15 (5) Until July 1, 2003 and beginning again on September 1,  
16 2004, graphic arts machinery and equipment, including repair  
17 and replacement parts, both new and used, and including that  
18 manufactured on special order or purchased for lease, certified  
19 by the purchaser to be used primarily for graphic arts  
20 production. Equipment includes chemicals or chemicals acting  
21 as catalysts but only if the chemicals or chemicals acting as  
22 catalysts effect a direct and immediate change upon a graphic  
23 arts product.

24 (6) Personal property sold by a teacher-sponsored student  
25 organization affiliated with an elementary or secondary school  
26 located in Illinois.

1           (7) Farm machinery and equipment, both new and used,  
2 including that manufactured on special order, certified by the  
3 purchaser to be used primarily for production agriculture or  
4 State or federal agricultural programs, including individual  
5 replacement parts for the machinery and equipment, including  
6 machinery and equipment purchased for lease, and including  
7 implements of husbandry defined in Section 1-130 of the  
8 Illinois Vehicle Code, farm machinery and agricultural  
9 chemical and fertilizer spreaders, and nurse wagons required to  
10 be registered under Section 3-809 of the Illinois Vehicle Code,  
11 but excluding other motor vehicles required to be registered  
12 under the Illinois Vehicle Code. Horticultural polyhouses or  
13 hoop houses used for propagating, growing, or overwintering  
14 plants shall be considered farm machinery and equipment under  
15 this item (7). Agricultural chemical tender tanks and dry boxes  
16 shall include units sold separately from a motor vehicle  
17 required to be licensed and units sold mounted on a motor  
18 vehicle required to be licensed if the selling price of the  
19 tender is separately stated.

20           Farm machinery and equipment shall include precision  
21 farming equipment that is installed or purchased to be  
22 installed on farm machinery and equipment including, but not  
23 limited to, tractors, harvesters, sprayers, planters, seeders,  
24 or spreaders. Precision farming equipment includes, but is not  
25 limited to, soil testing sensors, computers, monitors,  
26 software, global positioning and mapping systems, and other

1 such equipment.

2 Farm machinery and equipment also includes computers,  
3 sensors, software, and related equipment used primarily in the  
4 computer-assisted operation of production agriculture  
5 facilities, equipment, and activities such as, but not limited  
6 to, the collection, monitoring, and correlation of animal and  
7 crop data for the purpose of formulating animal diets and  
8 agricultural chemicals. This item (7) is exempt from the  
9 provisions of Section 3-55.

10 (8) Fuel and petroleum products sold to or used by an air  
11 common carrier, certified by the carrier to be used for  
12 consumption, shipment, or storage in the conduct of its  
13 business as an air common carrier, for a flight destined for or  
14 returning from a location or locations outside the United  
15 States without regard to previous or subsequent domestic  
16 stopovers.

17 (9) Proceeds of mandatory service charges separately  
18 stated on customers' bills for the purchase and consumption of  
19 food and beverages, to the extent that the proceeds of the  
20 service charge are in fact turned over as tips or as a  
21 substitute for tips to the employees who participate directly  
22 in preparing, serving, hosting or cleaning up the food or  
23 beverage function with respect to which the service charge is  
24 imposed.

25 (10) Until July 1, 2003, oil field exploration, drilling,  
26 and production equipment, including (i) rigs and parts of rigs,

1 rotary rigs, cable tool rigs, and workover rigs, (ii) pipe and  
2 tubular goods, including casing and drill strings, (iii) pumps  
3 and pump-jack units, (iv) storage tanks and flow lines, (v) any  
4 individual replacement part for oil field exploration,  
5 drilling, and production equipment, and (vi) machinery and  
6 equipment purchased for lease; but excluding motor vehicles  
7 required to be registered under the Illinois Vehicle Code.

8 (11) Photoprocessing machinery and equipment, including  
9 repair and replacement parts, both new and used, including that  
10 manufactured on special order, certified by the purchaser to be  
11 used primarily for photoprocessing, and including  
12 photoprocessing machinery and equipment purchased for lease.

13 (12) Until July 1, 2003, coal exploration, mining,  
14 offhighway hauling, processing, maintenance, and reclamation  
15 equipment, including replacement parts and equipment, and  
16 including equipment purchased for lease, but excluding motor  
17 vehicles required to be registered under the Illinois Vehicle  
18 Code.

19 (13) Beginning January 1, 1992 and through June 30, 2011,  
20 food for human consumption that is to be consumed off the  
21 premises where it is sold (other than alcoholic beverages, soft  
22 drinks and food that has been prepared for immediate  
23 consumption) and prescription and non-prescription medicines,  
24 drugs, medical appliances, and insulin, urine testing  
25 materials, syringes, and needles used by diabetics, for human  
26 use, when purchased for use by a person receiving medical

1 assistance under Article V ~~5~~ of the Illinois Public Aid Code  
2 who resides in a licensed long-term care facility, as defined  
3 in the Nursing Home Care Act, or in a licensed facility as  
4 defined in the MR/DD Community Care Act.

5 (14) Semen used for artificial insemination of livestock  
6 for direct agricultural production.

7 (15) Horses, or interests in horses, registered with and  
8 meeting the requirements of any of the Arabian Horse Club  
9 Registry of America, Appaloosa Horse Club, American Quarter  
10 Horse Association, United States Trotting Association, or  
11 Jockey Club, as appropriate, used for purposes of breeding or  
12 racing for prizes. This item (15) is exempt from the provisions  
13 of Section 3-55, and the exemption provided for under this item  
14 (15) applies for all periods beginning May 30, 1995, but no  
15 claim for credit or refund is allowed on or after January 1,  
16 2008 (the effective date of Public Act 95-88) for such taxes  
17 paid during the period beginning May 30, 2000 and ending on  
18 January 1, 2008 (the effective date of Public Act 95-88).

19 (16) Computers and communications equipment utilized for  
20 any hospital purpose and equipment used in the diagnosis,  
21 analysis, or treatment of hospital patients sold to a lessor  
22 who leases the equipment, under a lease of one year or longer  
23 executed or in effect at the time of the purchase, to a  
24 hospital that has been issued an active tax exemption  
25 identification number by the Department under Section 1g of the  
26 Retailers' Occupation Tax Act.

1           (17) Personal property sold to a lessor who leases the  
2 property, under a lease of one year or longer executed or in  
3 effect at the time of the purchase, to a governmental body that  
4 has been issued an active tax exemption identification number  
5 by the Department under Section 1g of the Retailers' Occupation  
6 Tax Act.

7           (18) Beginning with taxable years ending on or after  
8 December 31, 1995 and ending with taxable years ending on or  
9 before December 31, 2004, personal property that is donated for  
10 disaster relief to be used in a State or federally declared  
11 disaster area in Illinois or bordering Illinois by a  
12 manufacturer or retailer that is registered in this State to a  
13 corporation, society, association, foundation, or institution  
14 that has been issued a sales tax exemption identification  
15 number by the Department that assists victims of the disaster  
16 who reside within the declared disaster area.

17           (19) Beginning with taxable years ending on or after  
18 December 31, 1995 and ending with taxable years ending on or  
19 before December 31, 2004, personal property that is used in the  
20 performance of infrastructure repairs in this State, including  
21 but not limited to municipal roads and streets, access roads,  
22 bridges, sidewalks, waste disposal systems, water and sewer  
23 line extensions, water distribution and purification  
24 facilities, storm water drainage and retention facilities, and  
25 sewage treatment facilities, resulting from a State or  
26 federally declared disaster in Illinois or bordering Illinois

1 when such repairs are initiated on facilities located in the  
2 declared disaster area within 6 months after the disaster.

3 (20) Beginning July 1, 1999, game or game birds sold at a  
4 "game breeding and hunting preserve area" or an "exotic game  
5 hunting area" as those terms are used in the Wildlife Code or  
6 at a hunting enclosure approved through rules adopted by the  
7 Department of Natural Resources. This paragraph is exempt from  
8 the provisions of Section 3-55.

9 (21) A motor vehicle, as that term is defined in Section  
10 1-146 of the Illinois Vehicle Code, that is donated to a  
11 corporation, limited liability company, society, association,  
12 foundation, or institution that is determined by the Department  
13 to be organized and operated exclusively for educational  
14 purposes. For purposes of this exemption, "a corporation,  
15 limited liability company, society, association, foundation,  
16 or institution organized and operated exclusively for  
17 educational purposes" means all tax-supported public schools,  
18 private schools that offer systematic instruction in useful  
19 branches of learning by methods common to public schools and  
20 that compare favorably in their scope and intensity with the  
21 course of study presented in tax-supported schools, and  
22 vocational or technical schools or institutes organized and  
23 operated exclusively to provide a course of study of not less  
24 than 6 weeks duration and designed to prepare individuals to  
25 follow a trade or to pursue a manual, technical, mechanical,  
26 industrial, business, or commercial occupation.

1           (22) Beginning January 1, 2000, personal property,  
2 including food, purchased through fundraising events for the  
3 benefit of a public or private elementary or secondary school,  
4 a group of those schools, or one or more school districts if  
5 the events are sponsored by an entity recognized by the school  
6 district that consists primarily of volunteers and includes  
7 parents and teachers of the school children. This paragraph  
8 does not apply to fundraising events (i) for the benefit of  
9 private home instruction or (ii) for which the fundraising  
10 entity purchases the personal property sold at the events from  
11 another individual or entity that sold the property for the  
12 purpose of resale by the fundraising entity and that profits  
13 from the sale to the fundraising entity. This paragraph is  
14 exempt from the provisions of Section 3-55.

15           (23) Beginning January 1, 2000 and through December 31,  
16 2001, new or used automatic vending machines that prepare and  
17 serve hot food and beverages, including coffee, soup, and other  
18 items, and replacement parts for these machines. Beginning  
19 January 1, 2002 and through June 30, 2003, machines and parts  
20 for machines used in commercial, coin-operated amusement and  
21 vending business if a use or occupation tax is paid on the  
22 gross receipts derived from the use of the commercial,  
23 coin-operated amusement and vending machines. This paragraph  
24 is exempt from the provisions of Section 3-55.

25           (24) Beginning on the effective date of this amendatory Act  
26 of the 92nd General Assembly, computers and communications

1 equipment utilized for any hospital purpose and equipment used  
2 in the diagnosis, analysis, or treatment of hospital patients  
3 sold to a lessor who leases the equipment, under a lease of one  
4 year or longer executed or in effect at the time of the  
5 purchase, to a hospital that has been issued an active tax  
6 exemption identification number by the Department under  
7 Section 1g of the Retailers' Occupation Tax Act. This paragraph  
8 is exempt from the provisions of Section 3-55.

9 (25) Beginning on the effective date of this amendatory Act  
10 of the 92nd General Assembly, personal property sold to a  
11 lessor who leases the property, under a lease of one year or  
12 longer executed or in effect at the time of the purchase, to a  
13 governmental body that has been issued an active tax exemption  
14 identification number by the Department under Section 1g of the  
15 Retailers' Occupation Tax Act. This paragraph is exempt from  
16 the provisions of Section 3-55.

17 (26) Beginning on January 1, 2002 and through June 30,  
18 2011, tangible personal property purchased from an Illinois  
19 retailer by a taxpayer engaged in centralized purchasing  
20 activities in Illinois who will, upon receipt of the property  
21 in Illinois, temporarily store the property in Illinois (i) for  
22 the purpose of subsequently transporting it outside this State  
23 for use or consumption thereafter solely outside this State or  
24 (ii) for the purpose of being processed, fabricated, or  
25 manufactured into, attached to, or incorporated into other  
26 tangible personal property to be transported outside this State

1 and thereafter used or consumed solely outside this State. The  
2 Director of Revenue shall, pursuant to rules adopted in  
3 accordance with the Illinois Administrative Procedure Act,  
4 issue a permit to any taxpayer in good standing with the  
5 Department who is eligible for the exemption under this  
6 paragraph (26). The permit issued under this paragraph (26)  
7 shall authorize the holder, to the extent and in the manner  
8 specified in the rules adopted under this Act, to purchase  
9 tangible personal property from a retailer exempt from the  
10 taxes imposed by this Act. Taxpayers shall maintain all  
11 necessary books and records to substantiate the use and  
12 consumption of all such tangible personal property outside of  
13 the State of Illinois.

14 (27) Beginning January 1, 2008, tangible personal property  
15 used in the construction or maintenance of a community water  
16 supply, as defined under Section 3.145 of the Environmental  
17 Protection Act, that is operated by a not-for-profit  
18 corporation that holds a valid water supply permit issued under  
19 Title IV of the Environmental Protection Act. This paragraph is  
20 exempt from the provisions of Section 3-55.

21 (Source: P.A. 94-1002, eff. 7-3-06; 95-88, eff. 1-1-08; 95-538,  
22 eff. 1-1-08; 95-876, eff. 8-21-08.)

23 (35 ILCS 115/3-10) (from Ch. 120, par. 439.103-10)

24 Sec. 3-10. Rate of tax. Unless otherwise provided in this  
25 Section, the tax imposed by this Act is at the rate of 6.25% of

1 the "selling price", as defined in Section 2 of the Service Use  
2 Tax Act, of the tangible personal property. For the purpose of  
3 computing this tax, in no event shall the "selling price" be  
4 less than the cost price to the serviceman of the tangible  
5 personal property transferred. The selling price of each item  
6 of tangible personal property transferred as an incident of a  
7 sale of service may be shown as a distinct and separate item on  
8 the serviceman's billing to the service customer. If the  
9 selling price is not so shown, the selling price of the  
10 tangible personal property is deemed to be 50% of the  
11 serviceman's entire billing to the service customer. When,  
12 however, a serviceman contracts to design, develop, and produce  
13 special order machinery or equipment, the tax imposed by this  
14 Act shall be based on the serviceman's cost price of the  
15 tangible personal property transferred incident to the  
16 completion of the contract.

17 Beginning on July 1, 2000 and through December 31, 2000,  
18 with respect to motor fuel, as defined in Section 1.1 of the  
19 Motor Fuel Tax Law, and gasohol, as defined in Section 3-40 of  
20 the Use Tax Act, the tax is imposed at the rate of 1.25%.

21 With respect to gasohol, as defined in the Use Tax Act, the  
22 tax imposed by this Act shall apply to (i) 70% of the cost  
23 price of property transferred as an incident to the sale of  
24 service on or after January 1, 1990, and before July 1, 2003,  
25 (ii) 80% of the selling price of property transferred as an  
26 incident to the sale of service on or after July 1, 2003 and on

1 or before December 31, 2013, and (iii) 100% of the cost price  
2 thereafter. If, at any time, however, the tax under this Act on  
3 sales of gasohol, as defined in the Use Tax Act, is imposed at  
4 the rate of 1.25%, then the tax imposed by this Act applies to  
5 100% of the proceeds of sales of gasohol made during that time.

6 With respect to majority blended ethanol fuel, as defined  
7 in the Use Tax Act, the tax imposed by this Act does not apply  
8 to the selling price of property transferred as an incident to  
9 the sale of service on or after July 1, 2003 and on or before  
10 December 31, 2013 but applies to 100% of the selling price  
11 thereafter.

12 With respect to biodiesel blends, as defined in the Use Tax  
13 Act, with no less than 1% and no more than 10% biodiesel, the  
14 tax imposed by this Act applies to (i) 80% of the selling price  
15 of property transferred as an incident to the sale of service  
16 on or after July 1, 2003 and on or before December 31, 2013 and  
17 (ii) 100% of the proceeds of the selling price thereafter. If,  
18 at any time, however, the tax under this Act on sales of  
19 biodiesel blends, as defined in the Use Tax Act, with no less  
20 than 1% and no more than 10% biodiesel is imposed at the rate  
21 of 1.25%, then the tax imposed by this Act applies to 100% of  
22 the proceeds of sales of biodiesel blends with no less than 1%  
23 and no more than 10% biodiesel made during that time.

24 With respect to 100% biodiesel, as defined in the Use Tax  
25 Act, and biodiesel blends, as defined in the Use Tax Act, with  
26 more than 10% but no more than 99% biodiesel material, the tax

1 imposed by this Act does not apply to the proceeds of the  
2 selling price of property transferred as an incident to the  
3 sale of service on or after July 1, 2003 and on or before  
4 December 31, 2013 but applies to 100% of the selling price  
5 thereafter.

6 At the election of any registered serviceman made for each  
7 fiscal year, sales of service in which the aggregate annual  
8 cost price of tangible personal property transferred as an  
9 incident to the sales of service is less than 35%, or 75% in  
10 the case of servicemen transferring prescription drugs or  
11 servicemen engaged in graphic arts production, of the aggregate  
12 annual total gross receipts from all sales of service, the tax  
13 imposed by this Act shall be based on the serviceman's cost  
14 price of the tangible personal property transferred incident to  
15 the sale of those services.

16 The tax shall be imposed at the rate of 1% on food prepared  
17 for immediate consumption and transferred incident to a sale of  
18 service subject to this Act or the Service Occupation Tax Act  
19 by an entity licensed under the Hospital Licensing Act, the  
20 Nursing Home Care Act, the MR/DD Community Care Act, or the  
21 Child Care Act of 1969. The tax shall also be imposed at the  
22 rate of 1% on food for human consumption that is to be consumed  
23 off the premises where it is sold (other than alcoholic  
24 beverages, soft drinks, and food that has been prepared for  
25 immediate consumption and is not otherwise included in this  
26 paragraph) and prescription and nonprescription medicines,

1 drugs, medical appliances, modifications to a motor vehicle for  
2 the purpose of rendering it usable by a disabled person, and  
3 insulin, urine testing materials, syringes, and needles used by  
4 diabetics, for human use. For the purposes of this Section, the  
5 term "soft drinks" means any complete, finished, ready-to-use,  
6 non-alcoholic drink, whether carbonated or not, including but  
7 not limited to soda water, cola, fruit juice, vegetable juice,  
8 carbonated water, and all other preparations commonly known as  
9 soft drinks of whatever kind or description that are contained  
10 in any closed or sealed can, carton, or container, regardless  
11 of size. "Soft drinks" does not include coffee, tea,  
12 non-carbonated water, infant formula, milk or milk products as  
13 defined in the Grade A Pasteurized Milk and Milk Products Act,  
14 or drinks containing 50% or more natural fruit or vegetable  
15 juice.

16 Notwithstanding any other provisions of this Act, "food for  
17 human consumption that is to be consumed off the premises where  
18 it is sold" includes all food sold through a vending machine,  
19 except soft drinks and food products that are dispensed hot  
20 from a vending machine, regardless of the location of the  
21 vending machine.

22 (Source: P.A. 93-17, eff. 6-11-03.)

23 Section 90-65. The Retailers' Occupation Tax Act is amended  
24 by changing Section 2-5 as follows:

1 (35 ILCS 120/2-5) (from Ch. 120, par. 441-5)

2 Sec. 2-5. Exemptions. Gross receipts from proceeds from the  
3 sale of the following tangible personal property are exempt  
4 from the tax imposed by this Act:

5 (1) Farm chemicals.

6 (2) Farm machinery and equipment, both new and used,  
7 including that manufactured on special order, certified by the  
8 purchaser to be used primarily for production agriculture or  
9 State or federal agricultural programs, including individual  
10 replacement parts for the machinery and equipment, including  
11 machinery and equipment purchased for lease, and including  
12 implements of husbandry defined in Section 1-130 of the  
13 Illinois Vehicle Code, farm machinery and agricultural  
14 chemical and fertilizer spreaders, and nurse wagons required to  
15 be registered under Section 3-809 of the Illinois Vehicle Code,  
16 but excluding other motor vehicles required to be registered  
17 under the Illinois Vehicle Code. Horticultural polyhouses or  
18 hoop houses used for propagating, growing, or overwintering  
19 plants shall be considered farm machinery and equipment under  
20 this item (2). Agricultural chemical tender tanks and dry boxes  
21 shall include units sold separately from a motor vehicle  
22 required to be licensed and units sold mounted on a motor  
23 vehicle required to be licensed, if the selling price of the  
24 tender is separately stated.

25 Farm machinery and equipment shall include precision  
26 farming equipment that is installed or purchased to be

1 installed on farm machinery and equipment including, but not  
2 limited to, tractors, harvesters, sprayers, planters, seeders,  
3 or spreaders. Precision farming equipment includes, but is not  
4 limited to, soil testing sensors, computers, monitors,  
5 software, global positioning and mapping systems, and other  
6 such equipment.

7 Farm machinery and equipment also includes computers,  
8 sensors, software, and related equipment used primarily in the  
9 computer-assisted operation of production agriculture  
10 facilities, equipment, and activities such as, but not limited  
11 to, the collection, monitoring, and correlation of animal and  
12 crop data for the purpose of formulating animal diets and  
13 agricultural chemicals. This item (7) is exempt from the  
14 provisions of Section 2-70.

15 (3) Until July 1, 2003, distillation machinery and  
16 equipment, sold as a unit or kit, assembled or installed by the  
17 retailer, certified by the user to be used only for the  
18 production of ethyl alcohol that will be used for consumption  
19 as motor fuel or as a component of motor fuel for the personal  
20 use of the user, and not subject to sale or resale.

21 (4) Until July 1, 2003 and beginning again September 1,  
22 2004, graphic arts machinery and equipment, including repair  
23 and replacement parts, both new and used, and including that  
24 manufactured on special order or purchased for lease, certified  
25 by the purchaser to be used primarily for graphic arts  
26 production. Equipment includes chemicals or chemicals acting

1 as catalysts but only if the chemicals or chemicals acting as  
2 catalysts effect a direct and immediate change upon a graphic  
3 arts product.

4 (5) A motor vehicle of the first division, a motor vehicle  
5 of the second division that is a self contained motor vehicle  
6 designed or permanently converted to provide living quarters  
7 for recreational, camping, or travel use, with direct walk  
8 through access to the living quarters from the driver's seat,  
9 or a motor vehicle of the second division that is of the van  
10 configuration designed for the transportation of not less than  
11 7 nor more than 16 passengers, as defined in Section 1-146 of  
12 the Illinois Vehicle Code, that is used for automobile renting,  
13 as defined in the Automobile Renting Occupation and Use Tax  
14 Act. This paragraph is exempt from the provisions of Section  
15 2-70.

16 (6) Personal property sold by a teacher-sponsored student  
17 organization affiliated with an elementary or secondary school  
18 located in Illinois.

19 (7) Until July 1, 2003, proceeds of that portion of the  
20 selling price of a passenger car the sale of which is subject  
21 to the Replacement Vehicle Tax.

22 (8) Personal property sold to an Illinois county fair  
23 association for use in conducting, operating, or promoting the  
24 county fair.

25 (9) Personal property sold to a not-for-profit arts or  
26 cultural organization that establishes, by proof required by

1 the Department by rule, that it has received an exemption under  
2 Section 501(c)(3) of the Internal Revenue Code and that is  
3 organized and operated primarily for the presentation or  
4 support of arts or cultural programming, activities, or  
5 services. These organizations include, but are not limited to,  
6 music and dramatic arts organizations such as symphony  
7 orchestras and theatrical groups, arts and cultural service  
8 organizations, local arts councils, visual arts organizations,  
9 and media arts organizations. On and after the effective date  
10 of this amendatory Act of the 92nd General Assembly, however,  
11 an entity otherwise eligible for this exemption shall not make  
12 tax-free purchases unless it has an active identification  
13 number issued by the Department.

14 (10) Personal property sold by a corporation, society,  
15 association, foundation, institution, or organization, other  
16 than a limited liability company, that is organized and  
17 operated as a not-for-profit service enterprise for the benefit  
18 of persons 65 years of age or older if the personal property  
19 was not purchased by the enterprise for the purpose of resale  
20 by the enterprise.

21 (11) Personal property sold to a governmental body, to a  
22 corporation, society, association, foundation, or institution  
23 organized and operated exclusively for charitable, religious,  
24 or educational purposes, or to a not-for-profit corporation,  
25 society, association, foundation, institution, or organization  
26 that has no compensated officers or employees and that is

1 organized and operated primarily for the recreation of persons  
2 55 years of age or older. A limited liability company may  
3 qualify for the exemption under this paragraph only if the  
4 limited liability company is organized and operated  
5 exclusively for educational purposes. On and after July 1,  
6 1987, however, no entity otherwise eligible for this exemption  
7 shall make tax-free purchases unless it has an active  
8 identification number issued by the Department.

9 (12) Tangible personal property sold to interstate  
10 carriers for hire for use as rolling stock moving in interstate  
11 commerce or to lessors under leases of one year or longer  
12 executed or in effect at the time of purchase by interstate  
13 carriers for hire for use as rolling stock moving in interstate  
14 commerce and equipment operated by a telecommunications  
15 provider, licensed as a common carrier by the Federal  
16 Communications Commission, which is permanently installed in  
17 or affixed to aircraft moving in interstate commerce.

18 (12-5) On and after July 1, 2003 and through June 30, 2004,  
19 motor vehicles of the second division with a gross vehicle  
20 weight in excess of 8,000 pounds that are subject to the  
21 commercial distribution fee imposed under Section 3-815.1 of  
22 the Illinois Vehicle Code. Beginning on July 1, 2004 and  
23 through June 30, 2005, the use in this State of motor vehicles  
24 of the second division: (i) with a gross vehicle weight rating  
25 in excess of 8,000 pounds; (ii) that are subject to the  
26 commercial distribution fee imposed under Section 3-815.1 of

1 the Illinois Vehicle Code; and (iii) that are primarily used  
2 for commercial purposes. Through June 30, 2005, this exemption  
3 applies to repair and replacement parts added after the initial  
4 purchase of such a motor vehicle if that motor vehicle is used  
5 in a manner that would qualify for the rolling stock exemption  
6 otherwise provided for in this Act. For purposes of this  
7 paragraph, "used for commercial purposes" means the  
8 transportation of persons or property in furtherance of any  
9 commercial or industrial enterprise whether for-hire or not.

10 (13) Proceeds from sales to owners, lessors, or shippers of  
11 tangible personal property that is utilized by interstate  
12 carriers for hire for use as rolling stock moving in interstate  
13 commerce and equipment operated by a telecommunications  
14 provider, licensed as a common carrier by the Federal  
15 Communications Commission, which is permanently installed in  
16 or affixed to aircraft moving in interstate commerce.

17 (14) Machinery and equipment that will be used by the  
18 purchaser, or a lessee of the purchaser, primarily in the  
19 process of manufacturing or assembling tangible personal  
20 property for wholesale or retail sale or lease, whether the  
21 sale or lease is made directly by the manufacturer or by some  
22 other person, whether the materials used in the process are  
23 owned by the manufacturer or some other person, or whether the  
24 sale or lease is made apart from or as an incident to the  
25 seller's engaging in the service occupation of producing  
26 machines, tools, dies, jigs, patterns, gauges, or other similar

1 items of no commercial value on special order for a particular  
2 purchaser.

3 (15) Proceeds of mandatory service charges separately  
4 stated on customers' bills for purchase and consumption of food  
5 and beverages, to the extent that the proceeds of the service  
6 charge are in fact turned over as tips or as a substitute for  
7 tips to the employees who participate directly in preparing,  
8 serving, hosting or cleaning up the food or beverage function  
9 with respect to which the service charge is imposed.

10 (16) Petroleum products sold to a purchaser if the seller  
11 is prohibited by federal law from charging tax to the  
12 purchaser.

13 (17) Tangible personal property sold to a common carrier by  
14 rail or motor that receives the physical possession of the  
15 property in Illinois and that transports the property, or  
16 shares with another common carrier in the transportation of the  
17 property, out of Illinois on a standard uniform bill of lading  
18 showing the seller of the property as the shipper or consignor  
19 of the property to a destination outside Illinois, for use  
20 outside Illinois.

21 (18) Legal tender, currency, medallions, or gold or silver  
22 coinage issued by the State of Illinois, the government of the  
23 United States of America, or the government of any foreign  
24 country, and bullion.

25 (19) Until July 1 2003, oil field exploration, drilling,  
26 and production equipment, including (i) rigs and parts of rigs,

1 rotary rigs, cable tool rigs, and workover rigs, (ii) pipe and  
2 tubular goods, including casing and drill strings, (iii) pumps  
3 and pump-jack units, (iv) storage tanks and flow lines, (v) any  
4 individual replacement part for oil field exploration,  
5 drilling, and production equipment, and (vi) machinery and  
6 equipment purchased for lease; but excluding motor vehicles  
7 required to be registered under the Illinois Vehicle Code.

8 (20) Photoprocessing machinery and equipment, including  
9 repair and replacement parts, both new and used, including that  
10 manufactured on special order, certified by the purchaser to be  
11 used primarily for photoprocessing, and including  
12 photoprocessing machinery and equipment purchased for lease.

13 (21) Until July 1, 2003, coal exploration, mining,  
14 offhighway hauling, processing, maintenance, and reclamation  
15 equipment, including replacement parts and equipment, and  
16 including equipment purchased for lease, but excluding motor  
17 vehicles required to be registered under the Illinois Vehicle  
18 Code.

19 (22) Fuel and petroleum products sold to or used by an air  
20 carrier, certified by the carrier to be used for consumption,  
21 shipment, or storage in the conduct of its business as an air  
22 common carrier, for a flight destined for or returning from a  
23 location or locations outside the United States without regard  
24 to previous or subsequent domestic stopovers.

25 (23) A transaction in which the purchase order is received  
26 by a florist who is located outside Illinois, but who has a

1 florist located in Illinois deliver the property to the  
2 purchaser or the purchaser's donee in Illinois.

3 (24) Fuel consumed or used in the operation of ships,  
4 barges, or vessels that are used primarily in or for the  
5 transportation of property or the conveyance of persons for  
6 hire on rivers bordering on this State if the fuel is delivered  
7 by the seller to the purchaser's barge, ship, or vessel while  
8 it is afloat upon that bordering river.

9 (25) Except as provided in item (25-5) of this Section, a  
10 motor vehicle sold in this State to a nonresident even though  
11 the motor vehicle is delivered to the nonresident in this  
12 State, if the motor vehicle is not to be titled in this State,  
13 and if a drive-away permit is issued to the motor vehicle as  
14 provided in Section 3-603 of the Illinois Vehicle Code or if  
15 the nonresident purchaser has vehicle registration plates to  
16 transfer to the motor vehicle upon returning to his or her home  
17 state. The issuance of the drive-away permit or having the  
18 out-of-state registration plates to be transferred is prima  
19 facie evidence that the motor vehicle will not be titled in  
20 this State.

21 (25-5) The exemption under item (25) does not apply if the  
22 state in which the motor vehicle will be titled does not allow  
23 a reciprocal exemption for a motor vehicle sold and delivered  
24 in that state to an Illinois resident but titled in Illinois.  
25 The tax collected under this Act on the sale of a motor vehicle  
26 in this State to a resident of another state that does not

1 allow a reciprocal exemption shall be imposed at a rate equal  
2 to the state's rate of tax on taxable property in the state in  
3 which the purchaser is a resident, except that the tax shall  
4 not exceed the tax that would otherwise be imposed under this  
5 Act. At the time of the sale, the purchaser shall execute a  
6 statement, signed under penalty of perjury, of his or her  
7 intent to title the vehicle in the state in which the purchaser  
8 is a resident within 30 days after the sale and of the fact of  
9 the payment to the State of Illinois of tax in an amount  
10 equivalent to the state's rate of tax on taxable property in  
11 his or her state of residence and shall submit the statement to  
12 the appropriate tax collection agency in his or her state of  
13 residence. In addition, the retailer must retain a signed copy  
14 of the statement in his or her records. Nothing in this item  
15 shall be construed to require the removal of the vehicle from  
16 this state following the filing of an intent to title the  
17 vehicle in the purchaser's state of residence if the purchaser  
18 titles the vehicle in his or her state of residence within 30  
19 days after the date of sale. The tax collected under this Act  
20 in accordance with this item (25-5) shall be proportionately  
21 distributed as if the tax were collected at the 6.25% general  
22 rate imposed under this Act.

23 (25-7) Beginning on July 1, 2007, no tax is imposed under  
24 this Act on the sale of an aircraft, as defined in Section 3 of  
25 the Illinois Aeronautics Act, if all of the following  
26 conditions are met:

1           (1) the aircraft leaves this State within 15 days after  
2           the later of either the issuance of the final billing for  
3           the sale of the aircraft, or the authorized approval for  
4           return to service, completion of the maintenance record  
5           entry, and completion of the test flight and ground test  
6           for inspection, as required by 14 C.F.R. 91.407;

7           (2) the aircraft is not based or registered in this  
8           State after the sale of the aircraft; and

9           (3) the seller retains in his or her books and records  
10          and provides to the Department a signed and dated  
11          certification from the purchaser, on a form prescribed by  
12          the Department, certifying that the requirements of this  
13          item (25-7) are met. The certificate must also include the  
14          name and address of the purchaser, the address of the  
15          location where the aircraft is to be titled or registered,  
16          the address of the primary physical location of the  
17          aircraft, and other information that the Department may  
18          reasonably require.

19          For purposes of this item (25-7):

20          "Based in this State" means hangared, stored, or otherwise  
21          used, excluding post-sale customizations as defined in this  
22          Section, for 10 or more days in each 12-month period  
23          immediately following the date of the sale of the aircraft.

24          "Registered in this State" means an aircraft registered  
25          with the Department of Transportation, Aeronautics Division,  
26          or titled or registered with the Federal Aviation

1 Administration to an address located in this State.

2 This paragraph (25-7) is exempt from the provisions of  
3 Section 2-70.

4 (26) Semen used for artificial insemination of livestock  
5 for direct agricultural production.

6 (27) Horses, or interests in horses, registered with and  
7 meeting the requirements of any of the Arabian Horse Club  
8 Registry of America, Appaloosa Horse Club, American Quarter  
9 Horse Association, United States Trotting Association, or  
10 Jockey Club, as appropriate, used for purposes of breeding or  
11 racing for prizes. This item (27) is exempt from the provisions  
12 of Section 2-70, and the exemption provided for under this item  
13 (27) applies for all periods beginning May 30, 1995, but no  
14 claim for credit or refund is allowed on or after January 1,  
15 2008 (the effective date of Public Act 95-88) for such taxes  
16 paid during the period beginning May 30, 2000 and ending on  
17 January 1, 2008 (the effective date of Public Act 95-88) .

18 (28) Computers and communications equipment utilized for  
19 any hospital purpose and equipment used in the diagnosis,  
20 analysis, or treatment of hospital patients sold to a lessor  
21 who leases the equipment, under a lease of one year or longer  
22 executed or in effect at the time of the purchase, to a  
23 hospital that has been issued an active tax exemption  
24 identification number by the Department under Section 1g of  
25 this Act.

26 (29) Personal property sold to a lessor who leases the

1 property, under a lease of one year or longer executed or in  
2 effect at the time of the purchase, to a governmental body that  
3 has been issued an active tax exemption identification number  
4 by the Department under Section 1g of this Act.

5 (30) Beginning with taxable years ending on or after  
6 December 31, 1995 and ending with taxable years ending on or  
7 before December 31, 2004, personal property that is donated for  
8 disaster relief to be used in a State or federally declared  
9 disaster area in Illinois or bordering Illinois by a  
10 manufacturer or retailer that is registered in this State to a  
11 corporation, society, association, foundation, or institution  
12 that has been issued a sales tax exemption identification  
13 number by the Department that assists victims of the disaster  
14 who reside within the declared disaster area.

15 (31) Beginning with taxable years ending on or after  
16 December 31, 1995 and ending with taxable years ending on or  
17 before December 31, 2004, personal property that is used in the  
18 performance of infrastructure repairs in this State, including  
19 but not limited to municipal roads and streets, access roads,  
20 bridges, sidewalks, waste disposal systems, water and sewer  
21 line extensions, water distribution and purification  
22 facilities, storm water drainage and retention facilities, and  
23 sewage treatment facilities, resulting from a State or  
24 federally declared disaster in Illinois or bordering Illinois  
25 when such repairs are initiated on facilities located in the  
26 declared disaster area within 6 months after the disaster.

1           (32) Beginning July 1, 1999, game or game birds sold at a  
2 "game breeding and hunting preserve area" or an "exotic game  
3 hunting area" as those terms are used in the Wildlife Code or  
4 at a hunting enclosure approved through rules adopted by the  
5 Department of Natural Resources. This paragraph is exempt from  
6 the provisions of Section 2-70.

7           (33) A motor vehicle, as that term is defined in Section  
8 1-146 of the Illinois Vehicle Code, that is donated to a  
9 corporation, limited liability company, society, association,  
10 foundation, or institution that is determined by the Department  
11 to be organized and operated exclusively for educational  
12 purposes. For purposes of this exemption, "a corporation,  
13 limited liability company, society, association, foundation,  
14 or institution organized and operated exclusively for  
15 educational purposes" means all tax-supported public schools,  
16 private schools that offer systematic instruction in useful  
17 branches of learning by methods common to public schools and  
18 that compare favorably in their scope and intensity with the  
19 course of study presented in tax-supported schools, and  
20 vocational or technical schools or institutes organized and  
21 operated exclusively to provide a course of study of not less  
22 than 6 weeks duration and designed to prepare individuals to  
23 follow a trade or to pursue a manual, technical, mechanical,  
24 industrial, business, or commercial occupation.

25           (34) Beginning January 1, 2000, personal property,  
26 including food, purchased through fundraising events for the

1 benefit of a public or private elementary or secondary school,  
2 a group of those schools, or one or more school districts if  
3 the events are sponsored by an entity recognized by the school  
4 district that consists primarily of volunteers and includes  
5 parents and teachers of the school children. This paragraph  
6 does not apply to fundraising events (i) for the benefit of  
7 private home instruction or (ii) for which the fundraising  
8 entity purchases the personal property sold at the events from  
9 another individual or entity that sold the property for the  
10 purpose of resale by the fundraising entity and that profits  
11 from the sale to the fundraising entity. This paragraph is  
12 exempt from the provisions of Section 2-70.

13 (35) Beginning January 1, 2000 and through December 31,  
14 2001, new or used automatic vending machines that prepare and  
15 serve hot food and beverages, including coffee, soup, and other  
16 items, and replacement parts for these machines. Beginning  
17 January 1, 2002 and through June 30, 2003, machines and parts  
18 for machines used in commercial, coin-operated amusement and  
19 vending business if a use or occupation tax is paid on the  
20 gross receipts derived from the use of the commercial,  
21 coin-operated amusement and vending machines. This paragraph  
22 is exempt from the provisions of Section 2-70.

23 (35-5) Beginning August 23, 2001 and through June 30, 2011,  
24 food for human consumption that is to be consumed off the  
25 premises where it is sold (other than alcoholic beverages, soft  
26 drinks, and food that has been prepared for immediate

1 consumption) and prescription and nonprescription medicines,  
2 drugs, medical appliances, and insulin, urine testing  
3 materials, syringes, and needles used by diabetics, for human  
4 use, when purchased for use by a person receiving medical  
5 assistance under Article V 5 of the Illinois Public Aid Code  
6 who resides in a licensed long-term care facility, as defined  
7 in the Nursing Home Care Act, or a licensed facility as defined  
8 in the MR/DD Community Care Act.

9 (36) Beginning August 2, 2001, computers and  
10 communications equipment utilized for any hospital purpose and  
11 equipment used in the diagnosis, analysis, or treatment of  
12 hospital patients sold to a lessor who leases the equipment,  
13 under a lease of one year or longer executed or in effect at  
14 the time of the purchase, to a hospital that has been issued an  
15 active tax exemption identification number by the Department  
16 under Section 1g of this Act. This paragraph is exempt from the  
17 provisions of Section 2-70.

18 (37) Beginning August 2, 2001, personal property sold to a  
19 lessor who leases the property, under a lease of one year or  
20 longer executed or in effect at the time of the purchase, to a  
21 governmental body that has been issued an active tax exemption  
22 identification number by the Department under Section 1g of  
23 this Act. This paragraph is exempt from the provisions of  
24 Section 2-70.

25 (38) Beginning on January 1, 2002 and through June 30,  
26 2011, tangible personal property purchased from an Illinois

1 retailer by a taxpayer engaged in centralized purchasing  
2 activities in Illinois who will, upon receipt of the property  
3 in Illinois, temporarily store the property in Illinois (i) for  
4 the purpose of subsequently transporting it outside this State  
5 for use or consumption thereafter solely outside this State or  
6 (ii) for the purpose of being processed, fabricated, or  
7 manufactured into, attached to, or incorporated into other  
8 tangible personal property to be transported outside this State  
9 and thereafter used or consumed solely outside this State. The  
10 Director of Revenue shall, pursuant to rules adopted in  
11 accordance with the Illinois Administrative Procedure Act,  
12 issue a permit to any taxpayer in good standing with the  
13 Department who is eligible for the exemption under this  
14 paragraph (38). The permit issued under this paragraph (38)  
15 shall authorize the holder, to the extent and in the manner  
16 specified in the rules adopted under this Act, to purchase  
17 tangible personal property from a retailer exempt from the  
18 taxes imposed by this Act. Taxpayers shall maintain all  
19 necessary books and records to substantiate the use and  
20 consumption of all such tangible personal property outside of  
21 the State of Illinois.

22 (39) Beginning January 1, 2008, tangible personal property  
23 used in the construction or maintenance of a community water  
24 supply, as defined under Section 3.145 of the Environmental  
25 Protection Act, that is operated by a not-for-profit  
26 corporation that holds a valid water supply permit issued under

1 Title IV of the Environmental Protection Act. This paragraph is  
2 exempt from the provisions of Section 2-70.

3 (Source: P.A. 94-1002, eff. 7-3-06; 95-88, eff. 1-1-08; 95-233,  
4 eff. 8-16-07; 95-304, eff. 8-20-07; 95-538, eff. 1-1-08;  
5 95-707, eff. 1-11-08; 95-876, eff. 8-21-08.)

6 Section 90-70. The Regional Transportation Authority Act  
7 is amended by changing Section 4.03 as follows:

8 (70 ILCS 3615/4.03) (from Ch. 111 2/3, par. 704.03)

9 Sec. 4.03. Taxes.

10 (a) In order to carry out any of the powers or purposes of  
11 the Authority, the Board may by ordinance adopted with the  
12 concurrence of 12 of the then Directors, impose throughout the  
13 metropolitan region any or all of the taxes provided in this  
14 Section. Except as otherwise provided in this Act, taxes  
15 imposed under this Section and civil penalties imposed incident  
16 thereto shall be collected and enforced by the State Department  
17 of Revenue. The Department shall have the power to administer  
18 and enforce the taxes and to determine all rights for refunds  
19 for erroneous payments of the taxes. Nothing in this amendatory  
20 Act of the 95th General Assembly is intended to invalidate any  
21 taxes currently imposed by the Authority. The increased vote  
22 requirements to impose a tax shall only apply to actions taken  
23 after the effective date of this amendatory Act of the 95th  
24 General Assembly.

1           (b) The Board may impose a public transportation tax upon  
2 all persons engaged in the metropolitan region in the business  
3 of selling at retail motor fuel for operation of motor vehicles  
4 upon public highways. The tax shall be at a rate not to exceed  
5 5% of the gross receipts from the sales of motor fuel in the  
6 course of the business. As used in this Act, the term "motor  
7 fuel" shall have the same meaning as in the Motor Fuel Tax Law.  
8 The Board may provide for details of the tax. The provisions of  
9 any tax shall conform, as closely as may be practicable, to the  
10 provisions of the Municipal Retailers Occupation Tax Act,  
11 including without limitation, conformity to penalties with  
12 respect to the tax imposed and as to the powers of the State  
13 Department of Revenue to promulgate and enforce rules and  
14 regulations relating to the administration and enforcement of  
15 the provisions of the tax imposed, except that reference in the  
16 Act to any municipality shall refer to the Authority and the  
17 tax shall be imposed only with regard to receipts from sales of  
18 motor fuel in the metropolitan region, at rates as limited by  
19 this Section.

20           (c) In connection with the tax imposed under paragraph (b)  
21 of this Section the Board may impose a tax upon the privilege  
22 of using in the metropolitan region motor fuel for the  
23 operation of a motor vehicle upon public highways, the tax to  
24 be at a rate not in excess of the rate of tax imposed under  
25 paragraph (b) of this Section. The Board may provide for  
26 details of the tax.

1           (d) The Board may impose a motor vehicle parking tax upon  
2 the privilege of parking motor vehicles at off-street parking  
3 facilities in the metropolitan region at which a fee is  
4 charged, and may provide for reasonable classifications in and  
5 exemptions to the tax, for administration and enforcement  
6 thereof and for civil penalties and refunds thereunder and may  
7 provide criminal penalties thereunder, the maximum penalties  
8 not to exceed the maximum criminal penalties provided in the  
9 Retailers' Occupation Tax Act. The Authority may collect and  
10 enforce the tax itself or by contract with any unit of local  
11 government. The State Department of Revenue shall have no  
12 responsibility for the collection and enforcement unless the  
13 Department agrees with the Authority to undertake the  
14 collection and enforcement. As used in this paragraph, the term  
15 "parking facility" means a parking area or structure having  
16 parking spaces for more than 2 vehicles at which motor vehicles  
17 are permitted to park in return for an hourly, daily, or other  
18 periodic fee, whether publicly or privately owned, but does not  
19 include parking spaces on a public street, the use of which is  
20 regulated by parking meters.

21           (e) The Board may impose a Regional Transportation  
22 Authority Retailers' Occupation Tax upon all persons engaged in  
23 the business of selling tangible personal property at retail in  
24 the metropolitan region. In Cook County the tax rate shall be  
25 1.25% of the gross receipts from sales of food for human  
26 consumption that is to be consumed off the premises where it is

1 sold (other than alcoholic beverages, soft drinks and food that  
2 has been prepared for immediate consumption) and prescription  
3 and nonprescription medicines, drugs, medical appliances and  
4 insulin, urine testing materials, syringes and needles used by  
5 diabetics, and 1% of the gross receipts from other taxable  
6 sales made in the course of that business. In DuPage, Kane,  
7 Lake, McHenry, and Will Counties, the tax rate shall be 0.75%  
8 of the gross receipts from all taxable sales made in the course  
9 of that business. The tax imposed under this Section and all  
10 civil penalties that may be assessed as an incident thereof  
11 shall be collected and enforced by the State Department of  
12 Revenue. The Department shall have full power to administer and  
13 enforce this Section; to collect all taxes and penalties so  
14 collected in the manner hereinafter provided; and to determine  
15 all rights to credit memoranda arising on account of the  
16 erroneous payment of tax or penalty hereunder. In the  
17 administration of, and compliance with this Section, the  
18 Department and persons who are subject to this Section shall  
19 have the same rights, remedies, privileges, immunities, powers  
20 and duties, and be subject to the same conditions,  
21 restrictions, limitations, penalties, exclusions, exemptions  
22 and definitions of terms, and employ the same modes of  
23 procedure, as are prescribed in Sections 1, 1a, 1a-1, 1c, 1d,  
24 1e, 1f, 1i, 1j, 2 through 2-65 (in respect to all provisions  
25 therein other than the State rate of tax), 2c, 3 (except as to  
26 the disposition of taxes and penalties collected), 4, 5, 5a,

1 5b, 5c, 5d, 5e, 5f, 5g, 5h, 5i, 5j, 5k, 5l, 6, 6a, 6b, 6c, 7, 8,  
2 9, 10, 11, 12 and 13 of the Retailers' Occupation Tax Act and  
3 Section 3-7 of the Uniform Penalty and Interest Act, as fully  
4 as if those provisions were set forth herein.

5 Persons subject to any tax imposed under the authority  
6 granted in this Section may reimburse themselves for their  
7 seller's tax liability hereunder by separately stating the tax  
8 as an additional charge, which charge may be stated in  
9 combination in a single amount with State taxes that sellers  
10 are required to collect under the Use Tax Act, under any  
11 bracket schedules the Department may prescribe.

12 Whenever the Department determines that a refund should be  
13 made under this Section to a claimant instead of issuing a  
14 credit memorandum, the Department shall notify the State  
15 Comptroller, who shall cause the warrant to be drawn for the  
16 amount specified, and to the person named, in the notification  
17 from the Department. The refund shall be paid by the State  
18 Treasurer out of the Regional Transportation Authority tax fund  
19 established under paragraph (n) of this Section.

20 If a tax is imposed under this subsection (e), a tax shall  
21 also be imposed under subsections (f) and (g) of this Section.

22 For the purpose of determining whether a tax authorized  
23 under this Section is applicable, a retail sale by a producer  
24 of coal or other mineral mined in Illinois, is a sale at retail  
25 at the place where the coal or other mineral mined in Illinois  
26 is extracted from the earth. This paragraph does not apply to

1 coal or other mineral when it is delivered or shipped by the  
2 seller to the purchaser at a point outside Illinois so that the  
3 sale is exempt under the Federal Constitution as a sale in  
4 interstate or foreign commerce.

5 No tax shall be imposed or collected under this subsection  
6 on the sale of a motor vehicle in this State to a resident of  
7 another state if that motor vehicle will not be titled in this  
8 State.

9 Nothing in this Section shall be construed to authorize the  
10 Regional Transportation Authority to impose a tax upon the  
11 privilege of engaging in any business that under the  
12 Constitution of the United States may not be made the subject  
13 of taxation by this State.

14 (f) If a tax has been imposed under paragraph (e), a  
15 Regional Transportation Authority Service Occupation Tax shall  
16 also be imposed upon all persons engaged, in the metropolitan  
17 region in the business of making sales of service, who as an  
18 incident to making the sales of service, transfer tangible  
19 personal property within the metropolitan region, either in the  
20 form of tangible personal property or in the form of real  
21 estate as an incident to a sale of service. In Cook County, the  
22 tax rate shall be: (1) 1.25% of the serviceman's cost price of  
23 food prepared for immediate consumption and transferred  
24 incident to a sale of service subject to the service occupation  
25 tax by an entity licensed under the Hospital Licensing Act, ~~or~~  
26 the Nursing Home Care Act, or the MR/DD Community Care Act that

1 is located in the metropolitan region; (2) 1.25% of the selling  
2 price of food for human consumption that is to be consumed off  
3 the premises where it is sold (other than alcoholic beverages,  
4 soft drinks and food that has been prepared for immediate  
5 consumption) and prescription and nonprescription medicines,  
6 drugs, medical appliances and insulin, urine testing  
7 materials, syringes and needles used by diabetics; and (3) 1%  
8 of the selling price from other taxable sales of tangible  
9 personal property transferred. In DuPage, Kane, Lake, McHenry  
10 and Will Counties the rate shall be 0.75% of the selling price  
11 of all tangible personal property transferred.

12 The tax imposed under this paragraph and all civil  
13 penalties that may be assessed as an incident thereof shall be  
14 collected and enforced by the State Department of Revenue. The  
15 Department shall have full power to administer and enforce this  
16 paragraph; to collect all taxes and penalties due hereunder; to  
17 dispose of taxes and penalties collected in the manner  
18 hereinafter provided; and to determine all rights to credit  
19 memoranda arising on account of the erroneous payment of tax or  
20 penalty hereunder. In the administration of and compliance with  
21 this paragraph, the Department and persons who are subject to  
22 this paragraph shall have the same rights, remedies,  
23 privileges, immunities, powers and duties, and be subject to  
24 the same conditions, restrictions, limitations, penalties,  
25 exclusions, exemptions and definitions of terms, and employ the  
26 same modes of procedure, as are prescribed in Sections 1a-1, 2,

1 2a, 3 through 3-50 (in respect to all provisions therein other  
2 than the State rate of tax), 4 (except that the reference to  
3 the State shall be to the Authority), 5, 7, 8 (except that the  
4 jurisdiction to which the tax shall be a debt to the extent  
5 indicated in that Section 8 shall be the Authority), 9 (except  
6 as to the disposition of taxes and penalties collected, and  
7 except that the returned merchandise credit for this tax may  
8 not be taken against any State tax), 10, 11, 12 (except the  
9 reference therein to Section 2b of the Retailers' Occupation  
10 Tax Act), 13 (except that any reference to the State shall mean  
11 the Authority), the first paragraph of Section 15, 16, 17, 18,  
12 19 and 20 of the Service Occupation Tax Act and Section 3-7 of  
13 the Uniform Penalty and Interest Act, as fully as if those  
14 provisions were set forth herein.

15 Persons subject to any tax imposed under the authority  
16 granted in this paragraph may reimburse themselves for their  
17 serviceman's tax liability hereunder by separately stating the  
18 tax as an additional charge, that charge may be stated in  
19 combination in a single amount with State tax that servicemen  
20 are authorized to collect under the Service Use Tax Act, under  
21 any bracket schedules the Department may prescribe.

22 Whenever the Department determines that a refund should be  
23 made under this paragraph to a claimant instead of issuing a  
24 credit memorandum, the Department shall notify the State  
25 Comptroller, who shall cause the warrant to be drawn for the  
26 amount specified, and to the person named in the notification

1 from the Department. The refund shall be paid by the State  
2 Treasurer out of the Regional Transportation Authority tax fund  
3 established under paragraph (n) of this Section.

4 Nothing in this paragraph shall be construed to authorize  
5 the Authority to impose a tax upon the privilege of engaging in  
6 any business that under the Constitution of the United States  
7 may not be made the subject of taxation by the State.

8 (g) If a tax has been imposed under paragraph (e), a tax  
9 shall also be imposed upon the privilege of using in the  
10 metropolitan region, any item of tangible personal property  
11 that is purchased outside the metropolitan region at retail  
12 from a retailer, and that is titled or registered with an  
13 agency of this State's government. In Cook County the tax rate  
14 shall be 1% of the selling price of the tangible personal  
15 property, as "selling price" is defined in the Use Tax Act. In  
16 DuPage, Kane, Lake, McHenry and Will counties the tax rate  
17 shall be 0.75% of the selling price of the tangible personal  
18 property, as "selling price" is defined in the Use Tax Act. The  
19 tax shall be collected from persons whose Illinois address for  
20 titling or registration purposes is given as being in the  
21 metropolitan region. The tax shall be collected by the  
22 Department of Revenue for the Regional Transportation  
23 Authority. The tax must be paid to the State, or an exemption  
24 determination must be obtained from the Department of Revenue,  
25 before the title or certificate of registration for the  
26 property may be issued. The tax or proof of exemption may be

1 transmitted to the Department by way of the State agency with  
2 which, or the State officer with whom, the tangible personal  
3 property must be titled or registered if the Department and the  
4 State agency or State officer determine that this procedure  
5 will expedite the processing of applications for title or  
6 registration.

7 The Department shall have full power to administer and  
8 enforce this paragraph; to collect all taxes, penalties and  
9 interest due hereunder; to dispose of taxes, penalties and  
10 interest collected in the manner hereinafter provided; and to  
11 determine all rights to credit memoranda or refunds arising on  
12 account of the erroneous payment of tax, penalty or interest  
13 hereunder. In the administration of and compliance with this  
14 paragraph, the Department and persons who are subject to this  
15 paragraph shall have the same rights, remedies, privileges,  
16 immunities, powers and duties, and be subject to the same  
17 conditions, restrictions, limitations, penalties, exclusions,  
18 exemptions and definitions of terms and employ the same modes  
19 of procedure, as are prescribed in Sections 2 (except the  
20 definition of "retailer maintaining a place of business in this  
21 State"), 3 through 3-80 (except provisions pertaining to the  
22 State rate of tax, and except provisions concerning collection  
23 or refunding of the tax by retailers), 4, 11, 12, 12a, 14, 15,  
24 19 (except the portions pertaining to claims by retailers and  
25 except the last paragraph concerning refunds), 20, 21 and 22 of  
26 the Use Tax Act, and are not inconsistent with this paragraph,

1 as fully as if those provisions were set forth herein.

2 Whenever the Department determines that a refund should be  
3 made under this paragraph to a claimant instead of issuing a  
4 credit memorandum, the Department shall notify the State  
5 Comptroller, who shall cause the order to be drawn for the  
6 amount specified, and to the person named in the notification  
7 from the Department. The refund shall be paid by the State  
8 Treasurer out of the Regional Transportation Authority tax fund  
9 established under paragraph (n) of this Section.

10 (h) The Authority may impose a replacement vehicle tax of  
11 \$50 on any passenger car as defined in Section 1-157 of the  
12 Illinois Vehicle Code purchased within the metropolitan region  
13 by or on behalf of an insurance company to replace a passenger  
14 car of an insured person in settlement of a total loss claim.  
15 The tax imposed may not become effective before the first day  
16 of the month following the passage of the ordinance imposing  
17 the tax and receipt of a certified copy of the ordinance by the  
18 Department of Revenue. The Department of Revenue shall collect  
19 the tax for the Authority in accordance with Sections 3-2002  
20 and 3-2003 of the Illinois Vehicle Code.

21 The Department shall immediately pay over to the State  
22 Treasurer, ex officio, as trustee, all taxes collected  
23 hereunder. On or before the 25th day of each calendar month,  
24 the Department shall prepare and certify to the Comptroller the  
25 disbursement of stated sums of money to the Authority. The  
26 amount to be paid to the Authority shall be the amount

1 collected hereunder during the second preceding calendar month  
2 by the Department, less any amount determined by the Department  
3 to be necessary for the payment of refunds. Within 10 days  
4 after receipt by the Comptroller of the disbursement  
5 certification to the Authority provided for in this Section to  
6 be given to the Comptroller by the Department, the Comptroller  
7 shall cause the orders to be drawn for that amount in  
8 accordance with the directions contained in the certification.

9 (i) The Board may not impose any other taxes except as it  
10 may from time to time be authorized by law to impose.

11 (j) A certificate of registration issued by the State  
12 Department of Revenue to a retailer under the Retailers'  
13 Occupation Tax Act or under the Service Occupation Tax Act  
14 shall permit the registrant to engage in a business that is  
15 taxed under the tax imposed under paragraphs (b), (e), (f) or  
16 (g) of this Section and no additional registration shall be  
17 required under the tax. A certificate issued under the Use Tax  
18 Act or the Service Use Tax Act shall be applicable with regard  
19 to any tax imposed under paragraph (c) of this Section.

20 (k) The provisions of any tax imposed under paragraph (c)  
21 of this Section shall conform as closely as may be practicable  
22 to the provisions of the Use Tax Act, including without  
23 limitation conformity as to penalties with respect to the tax  
24 imposed and as to the powers of the State Department of Revenue  
25 to promulgate and enforce rules and regulations relating to the  
26 administration and enforcement of the provisions of the tax

1 imposed. The taxes shall be imposed only on use within the  
2 metropolitan region and at rates as provided in the paragraph.

3 (l) The Board in imposing any tax as provided in paragraphs  
4 (b) and (c) of this Section, shall, after seeking the advice of  
5 the State Department of Revenue, provide means for retailers,  
6 users or purchasers of motor fuel for purposes other than those  
7 with regard to which the taxes may be imposed as provided in  
8 those paragraphs to receive refunds of taxes improperly paid,  
9 which provisions may be at variance with the refund provisions  
10 as applicable under the Municipal Retailers Occupation Tax Act.  
11 The State Department of Revenue may provide for certificates of  
12 registration for users or purchasers of motor fuel for purposes  
13 other than those with regard to which taxes may be imposed as  
14 provided in paragraphs (b) and (c) of this Section to  
15 facilitate the reporting and nontaxability of the exempt sales  
16 or uses.

17 (m) Any ordinance imposing or discontinuing any tax under  
18 this Section shall be adopted and a certified copy thereof  
19 filed with the Department on or before June 1, whereupon the  
20 Department of Revenue shall proceed to administer and enforce  
21 this Section on behalf of the Regional Transportation Authority  
22 as of September 1 next following such adoption and filing.  
23 Beginning January 1, 1992, an ordinance or resolution imposing  
24 or discontinuing the tax hereunder shall be adopted and a  
25 certified copy thereof filed with the Department on or before  
26 the first day of July, whereupon the Department shall proceed

1 to administer and enforce this Section as of the first day of  
2 October next following such adoption and filing. Beginning  
3 January 1, 1993, an ordinance or resolution imposing,  
4 increasing, decreasing, or discontinuing the tax hereunder  
5 shall be adopted and a certified copy thereof filed with the  
6 Department, whereupon the Department shall proceed to  
7 administer and enforce this Section as of the first day of the  
8 first month to occur not less than 60 days following such  
9 adoption and filing. Any ordinance or resolution of the  
10 Authority imposing a tax under this Section and in effect on  
11 August 1, 2007 shall remain in full force and effect and shall  
12 be administered by the Department of Revenue under the terms  
13 and conditions and rates of tax established by such ordinance  
14 or resolution until the Department begins administering and  
15 enforcing an increased tax under this Section as authorized by  
16 this amendatory Act of the 95th General Assembly. The tax rates  
17 authorized by this amendatory Act of the 95th General Assembly  
18 are effective only if imposed by ordinance of the Authority.

19 (n) The State Department of Revenue shall, upon collecting  
20 any taxes as provided in this Section, pay the taxes over to  
21 the State Treasurer as trustee for the Authority. The taxes  
22 shall be held in a trust fund outside the State Treasury. On or  
23 before the 25th day of each calendar month, the State  
24 Department of Revenue shall prepare and certify to the  
25 Comptroller of the State of Illinois and to the Authority (i)  
26 the amount of taxes collected in each County other than Cook

1 County in the metropolitan region, (ii) the amount of taxes  
2 collected within the City of Chicago, and (iii) the amount  
3 collected in that portion of Cook County outside of Chicago,  
4 each amount less the amount necessary for the payment of  
5 refunds to taxpayers located in those areas described in items  
6 (i), (ii), and (iii). Within 10 days after receipt by the  
7 Comptroller of the certification of the amounts, the  
8 Comptroller shall cause an order to be drawn for the payment of  
9 two-thirds of the amounts certified in item (i) of this  
10 subsection to the Authority and one-third of the amounts  
11 certified in item (i) of this subsection to the respective  
12 counties other than Cook County and the amount certified in  
13 items (ii) and (iii) of this subsection to the Authority.

14 In addition to the disbursement required by the preceding  
15 paragraph, an allocation shall be made in July 1991 and each  
16 year thereafter to the Regional Transportation Authority. The  
17 allocation shall be made in an amount equal to the average  
18 monthly distribution during the preceding calendar year  
19 (excluding the 2 months of lowest receipts) and the allocation  
20 shall include the amount of average monthly distribution from  
21 the Regional Transportation Authority Occupation and Use Tax  
22 Replacement Fund. The distribution made in July 1992 and each  
23 year thereafter under this paragraph and the preceding  
24 paragraph shall be reduced by the amount allocated and  
25 disbursed under this paragraph in the preceding calendar year.  
26 The Department of Revenue shall prepare and certify to the

1 Comptroller for disbursement the allocations made in  
2 accordance with this paragraph.

3 (o) Failure to adopt a budget ordinance or otherwise to  
4 comply with Section 4.01 of this Act or to adopt a Five-year  
5 Capital Program or otherwise to comply with paragraph (b) of  
6 Section 2.01 of this Act shall not affect the validity of any  
7 tax imposed by the Authority otherwise in conformity with law.

8 (p) At no time shall a public transportation tax or motor  
9 vehicle parking tax authorized under paragraphs (b), (c) and  
10 (d) of this Section be in effect at the same time as any  
11 retailers' occupation, use or service occupation tax  
12 authorized under paragraphs (e), (f) and (g) of this Section is  
13 in effect.

14 Any taxes imposed under the authority provided in  
15 paragraphs (b), (c) and (d) shall remain in effect only until  
16 the time as any tax authorized by paragraphs (e), (f) or (g) of  
17 this Section are imposed and becomes effective. Once any tax  
18 authorized by paragraphs (e), (f) or (g) is imposed the Board  
19 may not reimpose taxes as authorized in paragraphs (b), (c) and  
20 (d) of the Section unless any tax authorized by paragraphs (e),  
21 (f) or (g) of this Section becomes ineffective by means other  
22 than an ordinance of the Board.

23 (q) Any existing rights, remedies and obligations  
24 (including enforcement by the Regional Transportation  
25 Authority) arising under any tax imposed under paragraphs (b),  
26 (c) or (d) of this Section shall not be affected by the

1 imposition of a tax under paragraphs (e), (f) or (g) of this  
2 Section.

3 (Source: P.A. 95-708, eff. 1-18-08.)

4 Section 90-75. The Ambulatory Surgical Treatment Center  
5 Act is amended by changing Section 3 as follows:

6 (210 ILCS 5/3) (from Ch. 111 1/2, par. 157-8.3)

7 Sec. 3. As used in this Act, unless the context otherwise  
8 requires, the following words and phrases shall have the  
9 meanings ascribed to them:

10 (A) "Ambulatory surgical treatment center" means any  
11 institution, place or building devoted primarily to the  
12 maintenance and operation of facilities for the performance of  
13 surgical procedures or any facility in which a medical or  
14 surgical procedure is utilized to terminate a pregnancy,  
15 irrespective of whether the facility is devoted primarily to  
16 this purpose. Such facility shall not provide beds or other  
17 accommodations for the overnight stay of patients; however,  
18 facilities devoted exclusively to the treatment of children may  
19 provide accommodations and beds for their patients for up to 23  
20 hours following admission. Individual patients shall be  
21 discharged in an ambulatory condition without danger to the  
22 continued well being of the patients or shall be transferred to  
23 a hospital.

24 The term "ambulatory surgical treatment center" does not

1 include any of the following:

2 (1) Any institution, place, building or agency  
3 required to be licensed pursuant to the "Hospital Licensing  
4 Act", approved July 1, 1953, as amended.

5 (2) Any person or institution required to be licensed  
6 pursuant to the ~~"Nursing Home Care Act or the MR/DD  
7 Community Care Act", approved August 23, 1979, as amended.~~

8 (3) Hospitals or ambulatory surgical treatment centers  
9 maintained by the State or any department or agency  
10 thereof, where such department or agency has authority  
11 under law to establish and enforce standards for the  
12 hospitals or ambulatory surgical treatment centers under  
13 its management and control.

14 (4) Hospitals or ambulatory surgical treatment centers  
15 maintained by the Federal Government or agencies thereof.

16 (5) Any place, agency, clinic, or practice, public or  
17 private, whether organized for profit or not, devoted  
18 exclusively to the performance of dental or oral surgical  
19 procedures.

20 (B) "Person" means any individual, firm, partnership,  
21 corporation, company, association, or joint stock association,  
22 or the legal successor thereof.

23 (C) "Department" means the Department of Public Health of  
24 the State of Illinois.

25 (D) "Director" means the Director of the Department of  
26 Public Health of the State of Illinois.

1 (E) "Physician" means a person licensed to practice  
2 medicine in all of its branches in the State of Illinois.

3 (F) "Dentist" means a person licensed to practice dentistry  
4 under the Illinois Dental Practice Act.

5 (G) "Podiatrist" means a person licensed to practice  
6 podiatry under the Podiatric Medical Practice Act of 1987.

7 (Source: P.A. 88-371; 88-441; 88-490; 88-670, eff. 12-2-94.)

8 Section 90-80. The Assisted Living and Shared Housing Act  
9 is amended by changing Sections 10, 35, 55, and 75 as follows:

10 (210 ILCS 9/10)

11 Sec. 10. Definitions. For purposes of this Act:

12 "Activities of daily living" means eating, dressing,  
13 bathing, toileting, transferring, or personal hygiene.

14 "Advisory Board" means the Assisted Living and Shared  
15 Housing Standards and Quality of Life Advisory Board.

16 "Assisted living establishment" or "establishment" means a  
17 home, building, residence, or any other place where sleeping  
18 accommodations are provided for at least 3 unrelated adults, at  
19 least 80% of whom are 55 years of age or older and where the  
20 following are provided consistent with the purposes of this  
21 Act:

22 (1) services consistent with a social model that is  
23 based on the premise that the resident's unit in assisted  
24 living and shared housing is his or her own home;

1           (2) community-based residential care for persons who  
2           need assistance with activities of daily living, including  
3           personal, supportive, and intermittent health-related  
4           services available 24 hours per day, if needed, to meet the  
5           scheduled and unscheduled needs of a resident;

6           (3) mandatory services, whether provided directly by  
7           the establishment or by another entity arranged for by the  
8           establishment, with the consent of the resident or  
9           resident's representative; and

10          (4) a physical environment that is a homelike setting  
11          that includes the following and such other elements as  
12          established by the Department in conjunction with the  
13          Assisted Living and Shared Housing Standards and Quality of  
14          Life Advisory Board: individual living units each of which  
15          shall accommodate small kitchen appliances and contain  
16          private bathing, washing, and toilet facilities, or  
17          private washing and toilet facilities with a common bathing  
18          room readily accessible to each resident. Units shall be  
19          maintained for single occupancy except in cases in which 2  
20          residents choose to share a unit. Sufficient common space  
21          shall exist to permit individual and group activities.

22          "Assisted living establishment" or "establishment" does  
23          not mean any of the following:

24                 (1) A home, institution, or similar place operated by  
25                 the federal government or the State of Illinois.

26                 (2) A long term care facility licensed under the

1           Nursing Home Care Act or a facility licensed under the  
2           MR/DD Community Care Act. However, a long term care  
3           facility may convert distinct parts of the facility to  
4           assisted living. If the long term care facility elects to  
5           do so, the facility shall retain the Certificate of Need  
6           for its nursing and sheltered care beds that were  
7           converted.

8           (3) A hospital, sanitarium, or other institution, the  
9           principal activity or business of which is the diagnosis,  
10          care, and treatment of human illness and that is required  
11          to be licensed under the Hospital Licensing Act.

12          (4) A facility for child care as defined in the Child  
13          Care Act of 1969.

14          (5) A community living facility as defined in the  
15          Community Living Facilities Licensing Act.

16          (6) A nursing home or sanitarium operated solely by and  
17          for persons who rely exclusively upon treatment by  
18          spiritual means through prayer in accordance with the creed  
19          or tenants of a well-recognized church or religious  
20          denomination.

21          (7) A facility licensed by the Department of Human  
22          Services as a community-integrated living arrangement as  
23          defined in the Community-Integrated Living Arrangements  
24          Licensure and Certification Act.

25          (8) A supportive residence licensed under the  
26          Supportive Residences Licensing Act.

1           (9) The portion of a life care facility as defined in  
2           the Life Care Facilities Act not licensed as an assisted  
3           living establishment under this Act; a life care facility  
4           may apply under this Act to convert sections of the  
5           community to assisted living.

6           (10) A free-standing hospice facility licensed under  
7           the Hospice Program Licensing Act.

8           (11) A shared housing establishment.

9           (12) A supportive living facility as described in  
10          Section 5-5.01a of the Illinois Public Aid Code.

11          "Department" means the Department of Public Health.

12          "Director" means the Director of Public Health.

13          "Emergency situation" means imminent danger of death or  
14          serious physical harm to a resident of an establishment.

15          "License" means any of the following types of licenses  
16          issued to an applicant or licensee by the Department:

17           (1) "Probationary license" means a license issued to an  
18           applicant or licensee that has not held a license under  
19           this Act prior to its application or pursuant to a license  
20           transfer in accordance with Section 50 of this Act.

21           (2) "Regular license" means a license issued by the  
22           Department to an applicant or licensee that is in  
23           substantial compliance with this Act and any rules  
24           promulgated under this Act.

25          "Licensee" means a person, agency, association,  
26          corporation, partnership, or organization that has been issued

1 a license to operate an assisted living or shared housing  
2 establishment.

3 "Licensed health care professional" means a registered  
4 professional nurse, an advanced practice nurse, a physician  
5 assistant, and a licensed practical nurse.

6 "Mandatory services" include the following:

7 (1) 3 meals per day available to the residents prepared  
8 by the establishment or an outside contractor;

9 (2) housekeeping services including, but not limited  
10 to, vacuuming, dusting, and cleaning the resident's unit;

11 (3) personal laundry and linen services available to  
12 the residents provided or arranged for by the  
13 establishment;

14 (4) security provided 24 hours each day including, but  
15 not limited to, locked entrances or building or contract  
16 security personnel;

17 (5) an emergency communication response system, which  
18 is a procedure in place 24 hours each day by which a  
19 resident can notify building management, an emergency  
20 response vendor, or others able to respond to his or her  
21 need for assistance; and

22 (6) assistance with activities of daily living as  
23 required by each resident.

24 "Negotiated risk" is the process by which a resident, or  
25 his or her representative, may formally negotiate with  
26 providers what risks each are willing and unwilling to assume

1 in service provision and the resident's living environment. The  
2 provider assures that the resident and the resident's  
3 representative, if any, are informed of the risks of these  
4 decisions and of the potential consequences of assuming these  
5 risks.

6 "Owner" means the individual, partnership, corporation,  
7 association, or other person who owns an assisted living or  
8 shared housing establishment. In the event an assisted living  
9 or shared housing establishment is operated by a person who  
10 leases or manages the physical plant, which is owned by another  
11 person, "owner" means the person who operates the assisted  
12 living or shared housing establishment, except that if the  
13 person who owns the physical plant is an affiliate of the  
14 person who operates the assisted living or shared housing  
15 establishment and has significant control over the day to day  
16 operations of the assisted living or shared housing  
17 establishment, the person who owns the physical plant shall  
18 incur jointly and severally with the owner all liabilities  
19 imposed on an owner under this Act.

20 "Physician" means a person licensed under the Medical  
21 Practice Act of 1987 to practice medicine in all of its  
22 branches.

23 "Resident" means a person residing in an assisted living or  
24 shared housing establishment.

25 "Resident's representative" means a person, other than the  
26 owner, agent, or employee of an establishment or of the health

1 care provider unless related to the resident, designated in  
2 writing by a resident to be his or her representative. This  
3 designation may be accomplished through the Illinois Power of  
4 Attorney Act, pursuant to the guardianship process under the  
5 Probate Act of 1975, or pursuant to an executed designation of  
6 representative form specified by the Department.

7 "Self" means the individual or the individual's designated  
8 representative.

9 "Shared housing establishment" or "establishment" means a  
10 publicly or privately operated free-standing residence for 16  
11 or fewer persons, at least 80% of whom are 55 years of age or  
12 older and who are unrelated to the owners and one manager of  
13 the residence, where the following are provided:

14 (1) services consistent with a social model that is  
15 based on the premise that the resident's unit is his or her  
16 own home;

17 (2) community-based residential care for persons who  
18 need assistance with activities of daily living, including  
19 housing and personal, supportive, and intermittent  
20 health-related services available 24 hours per day, if  
21 needed, to meet the scheduled and unscheduled needs of a  
22 resident; and

23 (3) mandatory services, whether provided directly by  
24 the establishment or by another entity arranged for by the  
25 establishment, with the consent of the resident or the  
26 resident's representative.

1 "Shared housing establishment" or "establishment" does not  
2 mean any of the following:

3 (1) A home, institution, or similar place operated by  
4 the federal government or the State of Illinois.

5 (2) A long term care facility licensed under the  
6 Nursing Home Care Act or a facility licensed under the  
7 MR/DD Community Care Act. A long term care facility may,  
8 however, convert sections of the facility to assisted  
9 living. If the long term care facility elects to do so, the  
10 facility shall retain the Certificate of Need for its  
11 nursing beds that were converted.

12 (3) A hospital, sanitarium, or other institution, the  
13 principal activity or business of which is the diagnosis,  
14 care, and treatment of human illness and that is required  
15 to be licensed under the Hospital Licensing Act.

16 (4) A facility for child care as defined in the Child  
17 Care Act of 1969.

18 (5) A community living facility as defined in the  
19 Community Living Facilities Licensing Act.

20 (6) A nursing home or sanitarium operated solely by and  
21 for persons who rely exclusively upon treatment by  
22 spiritual means through prayer in accordance with the creed  
23 or tenants of a well-recognized church or religious  
24 denomination.

25 (7) A facility licensed by the Department of Human  
26 Services as a community-integrated living arrangement as

1 defined in the Community-Integrated Living Arrangements  
2 Licensure and Certification Act.

3 (8) A supportive residence licensed under the  
4 Supportive Residences Licensing Act.

5 (9) A life care facility as defined in the Life Care  
6 Facilities Act; a life care facility may apply under this  
7 Act to convert sections of the community to assisted  
8 living.

9 (10) A free-standing hospice facility licensed under  
10 the Hospice Program Licensing Act.

11 (11) An assisted living establishment.

12 (12) A supportive living facility as described in  
13 Section 5-5.01a of the Illinois Public Aid Code.

14 "Total assistance" means that staff or another individual  
15 performs the entire activity of daily living without  
16 participation by the resident.

17 (Source: P.A. 95-216, eff. 8-16-07.)

18 (210 ILCS 9/35)

19 Sec. 35. Issuance of license.

20 (a) Upon receipt and review of an application for a license  
21 and review of the applicant establishment, the Director may  
22 issue a license if he or she finds:

23 (1) that the individual applicant, or the corporation,  
24 partnership, or other entity if the applicant is not an  
25 individual, is a person responsible and suitable to operate

1 or to direct or participate in the operation of an  
2 establishment by virtue of financial capacity, appropriate  
3 business or professional experience, a record of lawful  
4 compliance with lawful orders of the Department and lack of  
5 revocation of a license issued under this Act, ~~or~~ the  
6 Nursing Home Care Act, or the MR/DD Community Care Act  
7 during the previous 5 years;

8 (2) that the establishment is under the supervision of  
9 a full-time director who is at least 21 years of age and  
10 has a high school diploma or equivalent plus either:

11 (A) 2 years of management experience or 2 years of  
12 experience in positions of progressive responsibility  
13 in health care, housing with services, or adult day  
14 care or providing similar services to the elderly; or

15 (B) 2 years of management experience or 2 years of  
16 experience in positions of progressive responsibility  
17 in hospitality and training in health care and housing  
18 with services management as defined by rule;

19 (3) that the establishment has staff sufficient in  
20 number with qualifications, adequate skills, education,  
21 and experience to meet the 24 hour scheduled and  
22 unscheduled needs of residents and who participate in  
23 ongoing training to serve the resident population;

24 (4) that all employees who are subject to the Health  
25 Care Worker Background Check Act meet the requirements of  
26 that Act;

1           (5) that the applicant is in substantial compliance  
2 with this Act and such other requirements for a license as  
3 the Department by rule may establish under this Act;

4           (6) that the applicant pays all required fees;

5           (7) that the applicant has provided to the Department  
6 an accurate disclosure document in accordance with the  
7 Alzheimer's Special Care Disclosure Act and in substantial  
8 compliance with Section 150 of this Act.

9           In addition to any other requirements set forth in this  
10 Act, as a condition of licensure under this Act, the director  
11 of an establishment must participate in at least 20 hours of  
12 training every 2 years to assist him or her in better meeting  
13 the needs of the residents of the establishment and managing  
14 the operation of the establishment.

15           Any license issued by the Director shall state the physical  
16 location of the establishment, the date the license was issued,  
17 and the expiration date. All licenses shall be valid for one  
18 year, except as provided in Sections 40 and 45. Each license  
19 shall be issued only for the premises and persons named in the  
20 application, and shall not be transferable or assignable.

21           (Source: P.A. 95-79, eff. 8-13-07; 95-590, eff. 9-10-07;  
22 95-628, eff. 9-25-07; 95-876, eff. 8-21-08.)

23           (210 ILCS 9/55)

24           Sec. 55. Grounds for denial of a license. An application  
25 for a license may be denied for any of the following reasons:

1           (1) failure to meet any of the standards set forth in  
2 this Act or by rules adopted by the Department under this  
3 Act;

4           (2) conviction of the applicant, or if the applicant is  
5 a firm, partnership, or association, of any of its members,  
6 or if a corporation, the conviction of the corporation or  
7 any of its officers or stockholders, or of the person  
8 designated to manage or supervise the establishment, of a  
9 felony or of 2 or more misdemeanors involving moral  
10 turpitude during the previous 5 years as shown by a  
11 certified copy of the record of the court of conviction;

12           (3) personnel insufficient in number or unqualified by  
13 training or experience to properly care for the residents;

14           (4) insufficient financial or other resources to  
15 operate and conduct the establishment in accordance with  
16 standards adopted by the Department under this Act;

17           (5) revocation of a license during the previous 5  
18 years, if such prior license was issued to the individual  
19 applicant, a controlling owner or controlling combination  
20 of owners of the applicant; or any affiliate of the  
21 individual applicant or controlling owner of the applicant  
22 and such individual applicant, controlling owner of the  
23 applicant or affiliate of the applicant was a controlling  
24 owner of the prior license; provided, however, that the  
25 denial of an application for a license pursuant to this  
26 Section must be supported by evidence that the prior

1 revocation renders the applicant unqualified or incapable  
2 of meeting or maintaining an establishment in accordance  
3 with the standards and rules adopted by the Department  
4 under this Act; or

5 (6) the establishment is not under the direct  
6 supervision of a full-time director, as defined by rule.

7 The Department shall deny an application for a license if 6  
8 months after submitting its initial application the applicant  
9 has not provided the Department with all of the information  
10 required for review and approval or the applicant is not  
11 actively pursuing the processing of its application. In  
12 addition, the Department shall determine whether the applicant  
13 has violated any provision of the Nursing Home Care Act or the  
14 MR/DD Community Care Act.

15 (Source: P.A. 93-1003, eff. 8-23-04.)

16 (210 ILCS 9/75)

17 Sec. 75. Residency Requirements.

18 (a) No individual shall be accepted for residency or remain  
19 in residence if the establishment cannot provide or secure  
20 appropriate services, if the individual requires a level of  
21 service or type of service for which the establishment is not  
22 licensed or which the establishment does not provide, or if the  
23 establishment does not have the staff appropriate in numbers  
24 and with appropriate skill to provide such services.

25 (b) Only adults may be accepted for residency.

1 (c) A person shall not be accepted for residency if:

2 (1) the person poses a serious threat to himself or  
3 herself or to others;

4 (2) the person is not able to communicate his or her  
5 needs and no resident representative residing in the  
6 establishment, and with a prior relationship to the person,  
7 has been appointed to direct the provision of services;

8 (3) the person requires total assistance with 2 or more  
9 activities of daily living;

10 (4) the person requires the assistance of more than one  
11 paid caregiver at any given time with an activity of daily  
12 living;

13 (5) the person requires more than minimal assistance in  
14 moving to a safe area in an emergency;

15 (6) the person has a severe mental illness, which for  
16 the purposes of this Section means a condition that is  
17 characterized by the presence of a major mental disorder as  
18 classified in the Diagnostic and Statistical Manual of  
19 Mental Disorders, Fourth Edition (DSM-IV) (American  
20 Psychiatric Association, 1994), where the individual is  
21 substantially disabled due to mental illness in the areas  
22 of self-maintenance, social functioning, activities of  
23 community living and work skills, and the disability  
24 specified is expected to be present for a period of not  
25 less than one year, but does not mean Alzheimer's disease  
26 and other forms of dementia based on organic or physical

1 disorders;

2 (7) the person requires intravenous therapy or  
3 intravenous feedings unless self-administered or  
4 administered by a qualified, licensed health care  
5 professional;

6 (8) the person requires gastrostomy feedings unless  
7 self-administered or administered by a licensed health  
8 care professional;

9 (9) the person requires insertion, sterile irrigation,  
10 and replacement of catheter, except for routine  
11 maintenance of urinary catheters, unless the catheter care  
12 is self-administered or administered by a licensed health  
13 care professional;

14 (10) the person requires sterile wound care unless care  
15 is self-administered or administered by a licensed health  
16 care professional;

17 (11) the person requires sliding scale insulin  
18 administration unless self-performed or administered by a  
19 licensed health care professional;

20 (12) the person is a diabetic requiring routine insulin  
21 injections unless the injections are self-administered or  
22 administered by a licensed health care professional;

23 (13) the person requires treatment of stage 3 or stage  
24 4 decubitus ulcers or exfoliative dermatitis;

25 (14) the person requires 5 or more skilled nursing  
26 visits per week for conditions other than those listed in

1 items (13) and (15) of this subsection for a period of 3  
2 consecutive weeks or more except when the course of  
3 treatment is expected to extend beyond a 3 week period for  
4 rehabilitative purposes and is certified as temporary by a  
5 physician; or

6 (15) other reasons prescribed by the Department by  
7 rule.

8 (d) A resident with a condition listed in items (1) through  
9 (15) of subsection (c) shall have his or her residency  
10 terminated.

11 (e) Residency shall be terminated when services available  
12 to the resident in the establishment are no longer adequate to  
13 meet the needs of the resident. This provision shall not be  
14 interpreted as limiting the authority of the Department to  
15 require the residency termination of individuals.

16 (f) Subsection (d) of this Section shall not apply to  
17 terminally ill residents who receive or would qualify for  
18 hospice care and such care is coordinated by a hospice program  
19 licensed under the Hospice Program Licensing Act or other  
20 licensed health care professional employed by a licensed home  
21 health agency and the establishment and all parties agree to  
22 the continued residency.

23 (g) Items (3), (4), (5), and (9) of subsection (c) shall  
24 not apply to a quadriplegic, paraplegic, or individual with  
25 neuro-muscular diseases, such as muscular dystrophy and  
26 multiple sclerosis, or other chronic diseases and conditions as

1 defined by rule if the individual is able to communicate his or  
2 her needs and does not require assistance with complex medical  
3 problems, and the establishment is able to accommodate the  
4 individual's needs. The Department shall prescribe rules  
5 pursuant to this Section that address special safety and  
6 service needs of these individuals.

7 (h) For the purposes of items (7) through (10) of  
8 subsection (c), a licensed health care professional may not be  
9 employed by the owner or operator of the establishment, its  
10 parent entity, or any other entity with ownership common to  
11 either the owner or operator of the establishment or parent  
12 entity, including but not limited to an affiliate of the owner  
13 or operator of the establishment. Nothing in this Section is  
14 meant to limit a resident's right to choose his or her health  
15 care provider.

16 (i) Subsection (h) is not applicable to residents admitted  
17 to an assisted living establishment under a life care contract  
18 as defined in the Life Care Facilities Act if the life care  
19 facility has both an assisted living establishment and a  
20 skilled nursing facility. A licensed health care professional  
21 providing health-related or supportive services at a life care  
22 assisted living or shared housing establishment must be  
23 employed by an entity licensed by the Department under the  
24 Nursing Home Care Act, the MR/DD Community Care Act, or the  
25 Home Health, Home Services, and Home Nursing Agency Licensing  
26 Act.

1 (Source: P.A. 94-256, eff. 7-19-05; 94-570, eff. 8-12-05;  
2 95-216, eff. 8-16-07; 95-331, eff. 8-21-07.)

3 Section 90-85. The Abuse Prevention Review Team Act is  
4 amended by changing Sections 10 and 50 as follows:

5 (210 ILCS 28/10)

6 Sec. 10. Definitions. As used in this Act, unless the  
7 context requires otherwise:

8 "Department" means the Department of Public Health.

9 "Director" means the Director of Public Health.

10 "Executive Council" means the Illinois Residential Health  
11 Care Facility Resident Sexual Assault and Death Review Teams  
12 Executive Council.

13 "Resident" means a person residing in and receiving  
14 personal care from a facility licensed under the Nursing Home  
15 Care Act or the MR/DD Community Care Act.

16 "Review team" means a residential health care facility  
17 resident sexual assault and death review team appointed under  
18 this Act.

19 (Source: P.A. 93-577, eff. 8-21-03.)

20 (210 ILCS 28/50)

21 Sec. 50. Funding. Notwithstanding any other provision of  
22 law, to the extent permitted by federal law, the Department  
23 shall use moneys from fines paid by facilities licensed under

1 the Nursing Home Care Act or the MR/DD Community Care Act for  
2 violating requirements for certification under Titles XVIII  
3 and XIX of the Social Security Act to implement the provisions  
4 of this Act. The Department shall use moneys deposited in the  
5 Long Term Care Monitor/Receiver Fund to pay the costs of  
6 implementing this Act that cannot be met by the use of federal  
7 civil monetary penalties.

8 (Source: P.A. 94-931, eff. 6-26-06.)

9 Section 90-90. The Abused and Neglected Long Term Care  
10 Facility Residents Reporting Act is amended by changing  
11 Sections 3, 4, and 6 as follows:

12 (210 ILCS 30/3) (from Ch. 111 1/2, par. 4163)

13 Sec. 3. As used in this Act unless the context otherwise  
14 requires:

15 a. "Department" means the Department of Public Health of  
16 the State of Illinois.

17 b. "Resident" means a person residing in and receiving  
18 personal care from a long term care facility, or residing in a  
19 mental health facility or developmental disability facility as  
20 defined in the Mental Health and Developmental Disabilities  
21 Code.

22 c. "Long term care facility" has the same meaning ascribed  
23 to such term in the Nursing Home Care Act, except that the term  
24 as used in this Act shall include any mental health facility or

1 developmental disability facility as defined in the Mental  
2 Health and Developmental Disabilities Code. The term also  
3 includes any facility licensed under the MR/DD Community Care  
4 Act.

5 d. "Abuse" means any physical injury, sexual abuse or  
6 mental injury inflicted on a resident other than by accidental  
7 means.

8 e. "Neglect" means a failure in a long term care facility  
9 to provide adequate medical or personal care or maintenance,  
10 which failure results in physical or mental injury to a  
11 resident or in the deterioration of a resident's physical or  
12 mental condition.

13 f. "Protective services" means services provided to a  
14 resident who has been abused or neglected, which may include,  
15 but are not limited to alternative temporary institutional  
16 placement, nursing care, counseling, other social services  
17 provided at the nursing home where the resident resides or at  
18 some other facility, personal care and such protective services  
19 of voluntary agencies as are available.

20 g. Unless the context otherwise requires, direct or  
21 indirect references in this Act to the programs, personnel,  
22 facilities, services, service providers, or service recipients  
23 of the Department of Human Services shall be construed to refer  
24 only to those programs, personnel, facilities, services,  
25 service providers, or service recipients that pertain to the  
26 Department of Human Services' mental health and developmental

1 disabilities functions.

2 (Source: P.A. 89-507, eff. 7-1-97.)

3 (210 ILCS 30/4) (from Ch. 111 1/2, par. 4164)

4 Sec. 4. Any long term care facility administrator, agent or  
5 employee or any physician, hospital, surgeon, dentist,  
6 osteopath, chiropractor, podiatrist, accredited religious  
7 practitioner who provides treatment by spiritual means alone  
8 through prayer in accordance with the tenets and practices of  
9 the accrediting church, coroner, social worker, social  
10 services administrator, registered nurse, law enforcement  
11 officer, field personnel of the Department of Healthcare and  
12 Family Services, field personnel of the Illinois Department of  
13 Public Health and County or Municipal Health Departments,  
14 personnel of the Department of Human Services (acting as the  
15 successor to the Department of Mental Health and Developmental  
16 Disabilities or the Department of Public Aid), personnel of the  
17 Guardianship and Advocacy Commission, personnel of the State  
18 Fire Marshal, local fire department inspectors or other  
19 personnel, or personnel of the Illinois Department on Aging, or  
20 its subsidiary Agencies on Aging, or employee of a facility  
21 licensed under the Assisted Living and Shared Housing Act,  
22 having reasonable cause to believe any resident with whom they  
23 have direct contact has been subjected to abuse or neglect  
24 shall immediately report or cause a report to be made to the  
25 Department. Persons required to make reports or cause reports

1 to be made under this Section include all employees of the  
2 State of Illinois who are involved in providing services to  
3 residents, including professionals providing medical or  
4 rehabilitation services and all other persons having direct  
5 contact with residents; and further include all employees of  
6 community service agencies who provide services to a resident  
7 of a public or private long term care facility outside of that  
8 facility. Any long term care surveyor of the Illinois  
9 Department of Public Health who has reasonable cause to believe  
10 in the course of a survey that a resident has been abused or  
11 neglected and initiates an investigation while on site at the  
12 facility shall be exempt from making a report under this  
13 Section but the results of any such investigation shall be  
14 forwarded to the central register in a manner and form  
15 described by the Department.

16 The requirement of this Act shall not relieve any long term  
17 care facility administrator, agent or employee of  
18 responsibility to report the abuse or neglect of a resident  
19 under Section 3-610 of the Nursing Home Care Act or under  
20 Section 3-610 of the MR/DD Community Care Act.

21 In addition to the above persons required to report  
22 suspected resident abuse and neglect, any other person may make  
23 a report to the Department, or to any law enforcement officer,  
24 if such person has reasonable cause to suspect a resident has  
25 been abused or neglected.

26 This Section also applies to residents whose death occurs

1 from suspected abuse or neglect before being found or brought  
2 to a hospital.

3 A person required to make reports or cause reports to be  
4 made under this Section who fails to comply with the  
5 requirements of this Section is guilty of a Class A  
6 misdemeanor.

7 (Source: P.A. 94-853, eff. 6-13-06.)

8 (210 ILCS 30/6) (from Ch. 111 1/2, par. 4166)

9 Sec. 6. All reports of suspected abuse or neglect made  
10 under this Act shall be made immediately by telephone to the  
11 Department's central register established under Section 14 on  
12 the single, State-wide, toll-free telephone number established  
13 under Section 13, or in person or by telephone through the  
14 nearest Department office. No long term care facility  
15 administrator, agent or employee, or any other person, shall  
16 screen reports or otherwise withhold any reports from the  
17 Department, and no long term care facility, department of State  
18 government, or other agency shall establish any rules,  
19 criteria, standards or guidelines to the contrary. Every long  
20 term care facility, department of State government and other  
21 agency whose employees are required to make or cause to be made  
22 reports under Section 4 shall notify its employees of the  
23 provisions of that Section and of this Section, and provide to  
24 the Department documentation that such notification has been  
25 given. The Department of Human Services shall train all of its

1 mental health and developmental disabilities employees in the  
2 detection and reporting of suspected abuse and neglect of  
3 residents. Reports made to the central register through the  
4 State-wide, toll-free telephone number shall be transmitted to  
5 appropriate Department offices and municipal health  
6 departments that have responsibility for licensing long term  
7 care facilities under the Nursing Home Care Act or the MR/DD  
8 Community Care Act. All reports received through offices of the  
9 Department shall be forwarded to the central register, in a  
10 manner and form described by the Department. The Department  
11 shall be capable of receiving reports of suspected abuse and  
12 neglect 24 hours a day, 7 days a week. Reports shall also be  
13 made in writing deposited in the U.S. mail, postage prepaid,  
14 within 24 hours after having reasonable cause to believe that  
15 the condition of the resident resulted from abuse or neglect.  
16 Such reports may in addition be made to the local law  
17 enforcement agency in the same manner. However, in the event a  
18 report is made to the local law enforcement agency, the  
19 reporter also shall immediately so inform the Department. The  
20 Department shall initiate an investigation of each report of  
21 resident abuse and neglect under this Act, whether oral or  
22 written, as provided for in Section 3-702 of the Nursing Home  
23 Care Act or Section 3-702 of the MR/DD Community Care Act,  
24 except that reports of abuse which indicate that a resident's  
25 life or safety is in imminent danger shall be investigated  
26 within 24 hours of such report. The Department may delegate to

1 law enforcement officials or other public agencies the duty to  
2 perform such investigation.

3 With respect to investigations of reports of suspected  
4 abuse or neglect of residents of mental health and  
5 developmental disabilities institutions under the jurisdiction  
6 of the Department of Human Services, the Department shall  
7 transmit copies of such reports to the Department of State  
8 Police, the Department of Human Services, and the Inspector  
9 General appointed under Section 1-17 of the Department of Human  
10 Services Act. If the Department receives a report of suspected  
11 abuse or neglect of a recipient of services as defined in  
12 Section 1-123 of the Mental Health and Developmental  
13 Disabilities Code, the Department shall transmit copies of such  
14 report to the Inspector General and the Directors of the  
15 Guardianship and Advocacy Commission and the agency designated  
16 by the Governor pursuant to the Protection and Advocacy for  
17 Developmentally Disabled Persons Act. When requested by the  
18 Director of the Guardianship and Advocacy Commission, the  
19 agency designated by the Governor pursuant to the Protection  
20 and Advocacy for Developmentally Disabled Persons Act, or the  
21 Department of Financial and Professional Regulation, the  
22 Department, the Department of Human Services and the Department  
23 of State Police shall make available a copy of the final  
24 investigative report regarding investigations conducted by  
25 their respective agencies on incidents of suspected abuse or  
26 neglect of residents of mental health and developmental

1 disabilities institutions or individuals receiving services at  
2 community agencies under the jurisdiction of the Department of  
3 Human Services. Such final investigative report shall not  
4 contain witness statements, investigation notes, draft  
5 summaries, results of lie detector tests, investigative files  
6 or other raw data which was used to compile the final  
7 investigative report. Specifically, the final investigative  
8 report of the Department of State Police shall mean the  
9 Director's final transmittal letter. The Department of Human  
10 Services shall also make available a copy of the results of  
11 disciplinary proceedings of employees involved in incidents of  
12 abuse or neglect to the Directors. All identifiable information  
13 in reports provided shall not be further disclosed except as  
14 provided by the Mental Health and Developmental Disabilities  
15 Confidentiality Act. Nothing in this Section is intended to  
16 limit or construe the power or authority granted to the agency  
17 designated by the Governor pursuant to the Protection and  
18 Advocacy for Developmentally Disabled Persons Act, pursuant to  
19 any other State or federal statute.

20 With respect to investigations of reported resident abuse  
21 or neglect, the Department shall effect with appropriate law  
22 enforcement agencies formal agreements concerning methods and  
23 procedures for the conduct of investigations into the criminal  
24 histories of any administrator, staff assistant or employee of  
25 the nursing home or other person responsible for the residents  
26 care, as well as for other residents in the nursing home who

1 may be in a position to abuse, neglect or exploit the patient.  
2 Pursuant to the formal agreements entered into with appropriate  
3 law enforcement agencies, the Department may request  
4 information with respect to whether the person or persons set  
5 forth in this paragraph have ever been charged with a crime and  
6 if so, the disposition of those charges. Unless the criminal  
7 histories of the subjects involved crimes of violence or  
8 resident abuse or neglect, the Department shall be entitled  
9 only to information limited in scope to charges and their  
10 dispositions. In cases where prior crimes of violence or  
11 resident abuse or neglect are involved, a more detailed report  
12 can be made available to authorized representatives of the  
13 Department, pursuant to the agreements entered into with  
14 appropriate law enforcement agencies. Any criminal charges and  
15 their disposition information obtained by the Department shall  
16 be confidential and may not be transmitted outside the  
17 Department, except as required herein, to authorized  
18 representatives or delegates of the Department, and may not be  
19 transmitted to anyone within the Department who is not duly  
20 authorized to handle resident abuse or neglect investigations.

21 The Department shall effect formal agreements with  
22 appropriate law enforcement agencies in the various counties  
23 and communities to encourage cooperation and coordination in  
24 the handling of resident abuse or neglect cases pursuant to  
25 this Act. The Department shall adopt and implement methods and  
26 procedures to promote statewide uniformity in the handling of

1 reports of abuse and neglect under this Act, and those methods  
2 and procedures shall be adhered to by personnel of the  
3 Department involved in such investigations and reporting. The  
4 Department shall also make information required by this Act  
5 available to authorized personnel within the Department, as  
6 well as its authorized representatives.

7 The Department shall keep a continuing record of all  
8 reports made pursuant to this Act, including indications of the  
9 final determination of any investigation and the final  
10 disposition of all reports.

11 The Department shall report annually to the General  
12 Assembly on the incidence of abuse and neglect of long term  
13 care facility residents, with special attention to residents  
14 who are mentally disabled. The report shall include but not be  
15 limited to data on the number and source of reports of  
16 suspected abuse or neglect filed under this Act, the nature of  
17 any injuries to residents, the final determination of  
18 investigations, the type and number of cases where abuse or  
19 neglect is determined to exist, and the final disposition of  
20 cases.

21 (Source: P.A. 94-852, eff. 6-13-06; 95-545, eff. 8-28-07.)

22 Section 90-95. The Nursing Home Care Act is amended by  
23 changing Sections 1-113, 3-202.5, and 3-206 as follows:

24 (210 ILCS 45/1-113) (from Ch. 111 1/2, par. 4151-113)

1           Sec. 1-113. "Facility" or "long-term care facility" means a  
2 private home, institution, building, residence, or any other  
3 place, whether operated for profit or not, or a county home for  
4 the infirm and chronically ill operated pursuant to Division  
5 5-21 or 5-22 of the Counties Code, or any similar institution  
6 operated by a political subdivision of the State of Illinois,  
7 which provides, through its ownership or management, personal  
8 care, sheltered care or nursing for 3 or more persons, not  
9 related to the applicant or owner by blood or marriage. It  
10 includes skilled nursing facilities as that term is ~~and~~  
11 ~~intermediate care facilities as those terms are~~ defined in  
12 Title XVIII and Title XIX of the Federal Social Security Act.  
13 It also includes homes, institutions, or other places operated  
14 by or under the authority of the Illinois Department of  
15 Veterans' Affairs.

16           "Facility" does not include the following:

17           (1) A home, institution, or other place operated by the  
18 federal government or agency thereof, or by the State of  
19 Illinois, other than homes, institutions, or other places  
20 operated by or under the authority of the Illinois  
21 Department of Veterans' Affairs;

22           (2) A hospital, sanitarium, or other institution whose  
23 principal activity or business is the diagnosis, care, and  
24 treatment of human illness through the maintenance and  
25 operation as organized facilities therefor, which is  
26 required to be licensed under the Hospital Licensing Act;

1           (3) Any "facility for child care" as defined in the  
2 Child Care Act of 1969;

3           (4) Any "Community Living Facility" as defined in the  
4 Community Living Facilities Licensing Act;

5           (5) Any "community residential alternative" as defined  
6 in the Community Residential Alternatives Licensing Act;

7           (6) Any nursing home or sanatorium operated solely by  
8 and for persons who rely exclusively upon treatment by  
9 spiritual means through prayer, in accordance with the  
10 creed or tenets of any well-recognized church or religious  
11 denomination. However, such nursing home or sanatorium  
12 shall comply with all local laws and rules relating to  
13 sanitation and safety;

14           (7) Any facility licensed by the Department of Human  
15 Services as a community-integrated living arrangement as  
16 defined in the Community-Integrated Living Arrangements  
17 Licensure and Certification Act;

18           (8) Any "Supportive Residence" licensed under the  
19 Supportive Residences Licensing Act;

20           (9) Any "supportive living facility" in good standing  
21 with the program established under Section 5-5.01a of the  
22 Illinois Public Aid Code, except only for purposes of the  
23 employment of persons in accordance with Section 3-206.01;

24           (10) Any assisted living or shared housing  
25 establishment licensed under the Assisted Living and  
26 Shared Housing Act, except only for purposes of the

1 employment of persons in accordance with Section 3-206.01;

2 ~~or~~

3 (11) An Alzheimer's disease management center  
4 alternative health care model licensed under the  
5 Alternative Health Care Delivery Act; or-

6 (12) An intermediate care facility for the  
7 developmentally disabled or long-term care for under age 22  
8 facility licensed under the MR/DD Community Care Act.

9 (Source: P.A. 94-342, eff. 7-26-05; 95-380, eff. 8-23-07.)

10 (210 ILCS 45/3-202.5)

11 Sec. 3-202.5. Facility plan review; fees.

12 (a) Before commencing construction of a new facility or  
13 specified types of alteration or additions to an existing long  
14 term care facility involving major construction, as defined by  
15 rule by the Department, with an estimated cost greater than  
16 \$100,000, architectural drawings and specifications for the  
17 facility shall be submitted to the Department for review and  
18 approval. A facility may submit architectural drawings and  
19 specifications for other construction projects for Department  
20 review according to subsection (b) that shall not be subject to  
21 fees under subsection (d). Review of drawings and  
22 specifications shall be conducted by an employee of the  
23 Department meeting the qualifications established by the  
24 Department of Central Management Services class specifications  
25 for such an individual's position or by a person contracting

1 with the Department who meets those class specifications. Final  
2 approval of the drawings and specifications for compliance with  
3 design and construction standards shall be obtained from the  
4 Department before the alteration, addition, or new  
5 construction is begun.

6 (b) The Department shall inform an applicant in writing  
7 within 10 working days after receiving drawings and  
8 specifications and the required fee, if any, from the applicant  
9 whether the applicant's submission is complete or incomplete.  
10 Failure to provide the applicant with this notice within 10  
11 working days shall result in the submission being deemed  
12 complete for purposes of initiating the 60-day review period  
13 under this Section. If the submission is incomplete, the  
14 Department shall inform the applicant of the deficiencies with  
15 the submission in writing. If the submission is complete the  
16 required fee, if any, has been paid, the Department shall  
17 approve or disapprove drawings and specifications submitted to  
18 the Department no later than 60 days following receipt by the  
19 Department. The drawings and specifications shall be of  
20 sufficient detail, as provided by Department rule, to enable  
21 the Department to render a determination of compliance with  
22 design and construction standards under this Act. If the  
23 Department finds that the drawings are not of sufficient detail  
24 for it to render a determination of compliance, the plans shall  
25 be determined to be incomplete and shall not be considered for  
26 purposes of initiating the 60 day review period. If a

1 submission of drawings and specifications is incomplete, the  
2 applicant may submit additional information. The 60-day review  
3 period shall not commence until the Department determines that  
4 a submission of drawings and specifications is complete or the  
5 submission is deemed complete. If the Department has not  
6 approved or disapproved the drawings and specifications within  
7 60 days, the construction, major alteration, or addition shall  
8 be deemed approved. If the drawings and specifications are  
9 disapproved, the Department shall state in writing, with  
10 specificity, the reasons for the disapproval. The entity  
11 submitting the drawings and specifications may submit  
12 additional information in response to the written comments from  
13 the Department or request a reconsideration of the disapproval.  
14 A final decision of approval or disapproval shall be made  
15 within 45 days of the receipt of the additional information or  
16 reconsideration request. If denied, the Department shall state  
17 the specific reasons for the denial.

18 (c) The Department shall provide written approval for  
19 occupancy pursuant to subsection (g) and shall not issue a  
20 violation to a facility as a result of a licensure or complaint  
21 survey based upon the facility's physical structure if:

22 (1) the Department reviewed and approved or deemed  
23 approved the drawings and specifications for compliance  
24 with design and construction standards;

25 (2) the construction, major alteration, or addition  
26 was built as submitted;

1           (3) the law or rules have not been amended since the  
2 original approval; and

3           (4) the conditions at the facility indicate that there  
4 is a reasonable degree of safety provided for the  
5 residents.

6           (d) The Department shall charge the following fees in  
7 connection with its reviews conducted before June 30, 2004  
8 under this Section:

9           (1) (Blank).

10          (2) (Blank).

11          (3) If the estimated dollar value of the alteration,  
12 addition, or new construction is \$100,000 or more but less  
13 than \$500,000, the fee shall be the greater of \$2,400 or  
14 1.2% of that value.

15          (4) If the estimated dollar value of the alteration,  
16 addition, or new construction is \$500,000 or more but less  
17 than \$1,000,000, the fee shall be the greater of \$6,000 or  
18 0.96% of that value.

19          (5) If the estimated dollar value of the alteration,  
20 addition, or new construction is \$1,000,000 or more but  
21 less than \$5,000,000, the fee shall be the greater of  
22 \$9,600 or 0.22% of that value.

23          (6) If the estimated dollar value of the alteration,  
24 addition, or new construction is \$5,000,000 or more, the  
25 fee shall be the greater of \$11,000 or 0.11% of that value,  
26 but shall not exceed \$40,000.

1           The fees provided in this subsection (d) shall not apply to  
2 major construction projects involving facility changes that  
3 are required by Department rule amendments.

4           The fees provided in this subsection (d) shall also not  
5 apply to major construction projects if 51% or more of the  
6 estimated cost of the project is attributed to capital  
7 equipment. For major construction projects where 51% or more of  
8 the estimated cost of the project is attributed to capital  
9 equipment, the Department shall by rule establish a fee that is  
10 reasonably related to the cost of reviewing the project.

11           The Department shall not commence the facility plan review  
12 process under this Section until the applicable fee has been  
13 paid.

14           (e) All fees received by the Department under this Section  
15 shall be deposited into the Health Facility Plan Review Fund, a  
16 special fund created in the State Treasury. All fees paid by  
17 long-term care facilities under subsection (d) shall be used  
18 only to cover the costs relating to the Department's review of  
19 long-term care facility projects under this Section. Moneys  
20 shall be appropriated from that Fund to the Department only to  
21 pay the costs of conducting reviews under this Section or under  
22 Section 3-202.5 of the MR/DD Community Care Act. None of the  
23 moneys in the Health Facility Plan Review Fund shall be used to  
24 reduce the amount of General Revenue Fund moneys appropriated  
25 to the Department for facility plan reviews conducted pursuant  
26 to this Section.

1 (f) (1) The provisions of this amendatory Act of 1997  
2 concerning drawings and specifications shall apply only to  
3 drawings and specifications submitted to the Department on  
4 or after October 1, 1997.

5 (2) On and after the effective date of this amendatory  
6 Act of 1997 and before October 1, 1997, an applicant may  
7 submit or resubmit drawings and specifications to the  
8 Department and pay the fees provided in subsection (d). If  
9 an applicant pays the fees provided in subsection (d) under  
10 this paragraph (2), the provisions of subsection (b) shall  
11 apply with regard to those drawings and specifications.

12 (g) The Department shall conduct an on-site inspection of  
13 the completed project no later than 30 days after notification  
14 from the applicant that the project has been completed and all  
15 certifications required by the Department have been received  
16 and accepted by the Department. The Department shall provide  
17 written approval for occupancy to the applicant within 5  
18 working days of the Department's final inspection, provided the  
19 applicant has demonstrated substantial compliance as defined  
20 by Department rule. Occupancy of new major construction is  
21 prohibited until Department approval is received, unless the  
22 Department has not acted within the time frames provided in  
23 this subsection (g), in which case the construction shall be  
24 deemed approved. Occupancy shall be authorized after any  
25 required health inspection by the Department has been  
26 conducted.

1           (h) The Department shall establish, by rule, a procedure to  
2           conduct interim on-site review of large or complex construction  
3           projects.

4           (i) The Department shall establish, by rule, an expedited  
5           process for emergency repairs or replacement of like equipment.

6           (j) Nothing in this Section shall be construed to apply to  
7           maintenance, upkeep, or renovation that does not affect the  
8           structural integrity of the building, does not add beds or  
9           services over the number for which the long-term care facility  
10          is licensed, and provides a reasonable degree of safety for the  
11          residents.

12          (Source: P.A. 90-327, eff. 8-8-97; 90-600, eff. 6-25-98;  
13          91-712, eff. 7-1-00.)

14           (210 ILCS 45/3-206) (from Ch. 111 1/2, par. 4153-206)

15           Sec. 3-206. The Department shall prescribe a curriculum for  
16           training nursing assistants, habilitation aides, and child  
17           care aides.

18           (a) No person, except a volunteer who receives no  
19           compensation from a facility and is not included for the  
20           purpose of meeting any staffing requirements set forth by the  
21           Department, shall act as a nursing assistant, habilitation  
22           aide, or child care aide in a facility, nor shall any person,  
23           under any other title, not licensed, certified, or registered  
24           to render medical care by the Department of Professional  
25           Regulation, assist with the personal, medical, or nursing care

1 of residents in a facility, unless such person meets the  
2 following requirements:

3 (1) Be at least 16 years of age, of temperate habits  
4 and good moral character, honest, reliable and  
5 trustworthy;

6 (2) Be able to speak and understand the English  
7 language or a language understood by a substantial  
8 percentage of the facility's residents;

9 (3) Provide evidence of employment or occupation, if  
10 any, and residence for 2 years prior to his present  
11 employment;

12 (4) Have completed at least 8 years of grade school or  
13 provide proof of equivalent knowledge;

14 (5) Begin a current course of training for nursing  
15 assistants, habilitation aides, or child care aides,  
16 approved by the Department, within 45 days of initial  
17 employment in the capacity of a nursing assistant,  
18 habilitation aide, or child care aide at any facility. Such  
19 courses of training shall be successfully completed within  
20 120 days of initial employment in the capacity of nursing  
21 assistant, habilitation aide, or child care aide at a  
22 facility. Nursing assistants, habilitation aides, and  
23 child care aides who are enrolled in approved courses in  
24 community colleges or other educational institutions on a  
25 term, semester or trimester basis, shall be exempt from the  
26 120 day completion time limit. The Department shall adopt

1 rules for such courses of training. These rules shall  
2 include procedures for facilities to carry on an approved  
3 course of training within the facility.

4 The Department may accept comparable training in lieu  
5 of the 120 hour course for student nurses, foreign nurses,  
6 military personnel, or employes of the Department of Human  
7 Services.

8 The facility shall develop and implement procedures,  
9 which shall be approved by the Department, for an ongoing  
10 review process, which shall take place within the facility,  
11 for nursing assistants, habilitation aides, and child care  
12 aides.

13 At the time of each regularly scheduled licensure  
14 survey, or at the time of a complaint investigation, the  
15 Department may require any nursing assistant, habilitation  
16 aide, or child care aide to demonstrate, either through  
17 written examination or action, or both, sufficient  
18 knowledge in all areas of required training. If such  
19 knowledge is inadequate the Department shall require the  
20 nursing assistant, habilitation aide, or child care aide to  
21 complete inservice training and review in the facility  
22 until the nursing assistant, habilitation aide, or child  
23 care aide demonstrates to the Department, either through  
24 written examination or action, or both, sufficient  
25 knowledge in all areas of required training; and

26 (6) Be familiar with and have general skills related to

1 resident care.

2 (a-0.5) An educational entity, other than a secondary  
3 school, conducting a nursing assistant, habilitation aide, or  
4 child care aide training program shall initiate a UCIA criminal  
5 history record check prior to entry of an individual into the  
6 training program. A secondary school may initiate a UCIA  
7 criminal history record check prior to the entry of an  
8 individual into a training program.

9 (a-1) Nursing assistants, habilitation aides, or child  
10 care aides seeking to be included on the registry on or after  
11 January 1, 1996 must authorize the Department of Public Health  
12 or its designee that tests nursing assistants to request a UCIA  
13 criminal history check and submit all necessary information.

14 (b) Persons subject to this Section shall perform their  
15 duties under the supervision of a nurse.

16 (c) It is unlawful for any facility to employ any person in  
17 the capacity of nursing assistant, habilitation aide, or child  
18 care aide, or under any other title, not licensed by the State  
19 of Illinois to assist in the personal, medical, or nursing care  
20 of residents in such facility unless such person has complied  
21 with this Section.

22 (d) Proof of compliance by each employee with the  
23 requirements set out in this Section shall be maintained for  
24 each such employee by each facility in the individual personnel  
25 folder of the employee.

26 (e) Each facility shall certify to the Department on a form

1 provided by the Department the name and residence address of  
2 each employee, and that each employee subject to this Section  
3 meets all the requirements of this Section.

4 (f) Any facility that is operated under Section 3-803 shall  
5 be exempt from the requirements of this Section.

6 (g) Each skilled nursing ~~and intermediate care~~ facility  
7 that admits persons who are diagnosed as having Alzheimer's  
8 disease or related dementias shall require all nursing  
9 assistants, habilitation aides, or child care aides, who did  
10 not receive 12 hours of training in the care and treatment of  
11 such residents during the training required under paragraph (5)  
12 of subsection (a), to obtain 12 hours of in-house training in  
13 the care and treatment of such residents. If the facility does  
14 not provide the training in-house, the training shall be  
15 obtained from other facilities, community colleges or other  
16 educational institutions that have a recognized course for such  
17 training. The Department shall, by rule, establish a recognized  
18 course for such training. The Department's rules shall provide  
19 that such training may be conducted in-house at each facility  
20 subject to the requirements of this subsection, in which case  
21 such training shall be monitored by the Department.

22 The Department's rules shall also provide for  
23 circumstances and procedures whereby any person who has  
24 received training that meets the requirements of this  
25 subsection shall not be required to undergo additional training  
26 if he or she is transferred to or obtains employment at a

1 different facility but remains continuously employed as a  
2 nursing assistant, habilitation aide, or child care aide.  
3 Licensed sheltered care facilities shall be exempt from the  
4 requirements of this Section.

5 (Source: P.A. 91-598, eff. 1-1-00.)

6 Section 90-100. The Home Health, Home Services, and Home  
7 Nursing Agency Licensing Act is amended by changing Section  
8 2.08 as follows:

9 (210 ILCS 55/2.08)

10 Sec. 2.08. "Home services agency" means an agency that  
11 provides services directly, or acts as a placement agency, for  
12 the purpose of placing individuals as workers providing home  
13 services for consumers in their personal residences. "Home  
14 services agency" does not include agencies licensed under the  
15 Nurse Agency Licensing Act, the Hospital Licensing Act, the  
16 Nursing Home Care Act, the MR/DD Community Care Act, or the  
17 Assisted Living and Shared Housing Act and does not include an  
18 agency that limits its business exclusively to providing  
19 housecleaning services. Programs providing services  
20 exclusively through the Community Care Program of the Illinois  
21 Department on Aging or the Department of Human Services Office  
22 of Rehabilitation Services are not considered to be a home  
23 services agency under this Act.

24 (Source: P.A. 94-379, eff. 1-1-06.)

1 Section 90-105. The Hospice Program Licensing Act is  
2 amended by changing Sections 3 and 4 as follows:

3 (210 ILCS 60/3) (from Ch. 111 1/2, par. 6103)

4 Sec. 3. Definitions. As used in this Act, unless the  
5 context otherwise requires:

6 (a) "Bereavement" means the period of time during which the  
7 hospice patient's family experiences and adjusts to the death  
8 of the hospice patient.

9 (a-5) "Bereavement services" means counseling services  
10 provided to an individual's family after the individual's  
11 death.

12 (a-10) "Attending physician" means a physician who:

13 (1) is a doctor of medicine or osteopathy; and

14 (2) is identified by an individual, at the time the  
15 individual elects to receive hospice care, as having the  
16 most significant role in the determination and delivery of  
17 the individual's medical care.

18 (b) "Department" means the Illinois Department of Public  
19 Health.

20 (c) "Director" means the Director of the Illinois  
21 Department of Public Health.

22 (d) "Hospice care" means a program of palliative care that  
23 provides for the physical, emotional, and spiritual care needs  
24 of a terminally ill patient and his or her family. The goal of

1 such care is to achieve the highest quality of life as defined  
2 by the patient and his or her family through the relief of  
3 suffering and control of symptoms.

4 (e) "Hospice care team" means an interdisciplinary group or  
5 groups composed of individuals who provide or supervise the  
6 care and services offered by the hospice.

7 (f) "Hospice patient" means a terminally ill person  
8 receiving hospice services.

9 (g) "Hospice patient's family" means a hospice patient's  
10 immediate family consisting of a spouse, sibling, child, parent  
11 and those individuals designated as such by the patient for the  
12 purposes of this Act.

13 (g-1) "Hospice residence" means a separately licensed  
14 home, apartment building, or similar building providing living  
15 quarters:

16 (1) that is owned or operated by a person licensed to  
17 operate as a comprehensive hospice; and

18 (2) at which hospice services are provided to facility  
19 residents.

20 A building that is licensed under the Hospital Licensing  
21 Act, ~~or~~ the Nursing Home Care Act, or the MR/DD Community Care  
22 Act is not a hospice residence.

23 (h) "Hospice services" means a range of professional and  
24 other supportive services provided to a hospice patient and his  
25 or her family. These services may include, but are not limited  
26 to, physician services, nursing services, medical social work

1 services, spiritual counseling services, bereavement services,  
2 and volunteer services.

3 (h-5) "Hospice program" means a licensed public agency or  
4 private organization, or a subdivision of either of those, that  
5 is primarily engaged in providing care to terminally ill  
6 individuals through a program of home care or inpatient care,  
7 or both home care and inpatient care, utilizing a medically  
8 directed interdisciplinary hospice care team of professionals  
9 or volunteers, or both professionals and volunteers. A hospice  
10 program may be licensed as a comprehensive hospice program or a  
11 volunteer hospice program.

12 (h-10) "Comprehensive hospice" means a program that  
13 provides hospice services and meets the minimum standards for  
14 certification under the Medicare program set forth in the  
15 Conditions of Participation in 42 CFR Part 418 but is not  
16 required to be Medicare-certified.

17 (i) "Palliative care" means the management of pain and  
18 other distressing symptoms that incorporates medical, nursing,  
19 psychosocial, and spiritual care according to the needs,  
20 values, beliefs, and culture or cultures of the patient and his  
21 or her family. The evaluation and treatment is  
22 patient-centered, with a focus on the central role of the  
23 family unit in decision-making.

24 (j) "Hospice service plan" means a plan detailing the  
25 specific hospice services offered by a comprehensive or  
26 volunteer hospice program, and the administrative and direct

1 care personnel responsible for those services. The plan shall  
2 include but not be limited to:

3 (1) Identification of the person or persons  
4 administratively responsible for the program.

5 (2) The estimated average monthly patient census.

6 (3) The proposed geographic area the hospice will  
7 serve.

8 (4) A listing of those hospice services provided  
9 directly by the hospice, and those hospice services  
10 provided indirectly through a contractual agreement.

11 (5) The name and qualifications of those persons or  
12 entities under contract to provide indirect hospice  
13 services.

14 (6) The name and qualifications of those persons  
15 providing direct hospice services, with the exception of  
16 volunteers.

17 (7) A description of how the hospice plans to utilize  
18 volunteers in the provision of hospice services.

19 (8) A description of the program's record keeping  
20 system.

21 (k) "Terminally ill" means a medical prognosis by a  
22 physician licensed to practice medicine in all of its branches  
23 that a patient has an anticipated life expectancy of one year  
24 or less.

25 (l) "Volunteer" means a person who offers his or her  
26 services to a hospice without compensation. Reimbursement for a

1 volunteer's expenses in providing hospice service shall not be  
2 considered compensation.

3 (1-5) "Employee" means a paid or unpaid member of the staff  
4 of a hospice program, or, if the hospice program is a  
5 subdivision of an agency or organization, of the agency or  
6 organization, who is appropriately trained and assigned to the  
7 hospice program. "Employee" also means a volunteer whose duties  
8 are prescribed by the hospice program and whose performance of  
9 those duties is supervised by the hospice program.

10 (1-10) "Representative" means an individual who has been  
11 authorized under State law to terminate an individual's medical  
12 care or to elect or revoke the election of hospice care on  
13 behalf of a terminally ill individual who is mentally or  
14 physically incapacitated.

15 (m) "Volunteer hospice" means a program which provides  
16 hospice services to patients regardless of their ability to  
17 pay, with emphasis on the utilization of volunteers to provide  
18 services, under the administration of a not-for-profit agency.  
19 This definition does not prohibit the employment of staff.

20 (Source: P.A. 93-319, eff. 7-23-03; 94-570, eff. 8-12-05.)

21 (210 ILCS 60/4) (from Ch. 111 1/2, par. 6104)

22 Sec. 4. License.

23 (a) No person shall establish, conduct or maintain a  
24 comprehensive or volunteer hospice program without first  
25 obtaining a license from the Department. A hospice residence

1 may be operated only at the locations listed on the license. A  
2 comprehensive hospice program owning or operating a hospice  
3 residence is not subject to the provisions of the Nursing Home  
4 Care Act or the MR/DD Community Care Act in owning or operating  
5 a hospice residence.

6 (b) No public or private agency shall advertise or present  
7 itself to the public as a comprehensive or volunteer hospice  
8 program which provides hospice services without meeting the  
9 provisions of subsection (a).

10 (c) The license shall be valid only in the possession of  
11 the hospice to which it was originally issued and shall not be  
12 transferred or assigned to any other person, agency, or  
13 corporation.

14 (d) The license shall be renewed annually.

15 (e) The license shall be displayed in a conspicuous place  
16 inside the hospice program office.

17 (Source: P.A. 93-319, eff. 7-23-03; 94-570, eff. 8-12-05.)

18 Section 90-110. The Hospital Licensing Act is amended by  
19 changing Sections 3 and 6.09 as follows:

20 (210 ILCS 85/3) (from Ch. 111 1/2, par. 144)

21 Sec. 3. As used in this Act:

22 (A) "Hospital" means any institution, place, building, or  
23 agency, public or private, whether organized for profit or not,  
24 devoted primarily to the maintenance and operation of

1 facilities for the diagnosis and treatment or care of 2 or more  
2 unrelated persons admitted for overnight stay or longer in  
3 order to obtain medical, including obstetric, psychiatric and  
4 nursing, care of illness, disease, injury, infirmity, or  
5 deformity.

6 The term "hospital", without regard to length of stay,  
7 shall also include:

8 (a) any facility which is devoted primarily to  
9 providing psychiatric and related services and programs  
10 for the diagnosis and treatment or care of 2 or more  
11 unrelated persons suffering from emotional or nervous  
12 diseases;

13 (b) all places where pregnant females are received,  
14 cared for, or treated during delivery irrespective of the  
15 number of patients received.

16 The term "hospital" includes general and specialized  
17 hospitals, tuberculosis sanitarium, mental or psychiatric  
18 hospitals and sanitarium, and includes maternity homes,  
19 lying-in homes, and homes for unwed mothers in which care is  
20 given during delivery.

21 The term "hospital" does not include:

22 (1) any person or institution required to be licensed  
23 pursuant to the Nursing Home Care Act or the MR/DD  
24 Community Care Act, ~~as amended~~;

25 (2) hospitalization or care facilities maintained by  
26 the State or any department or agency thereof, where such

1 department or agency has authority under law to establish  
2 and enforce standards for the hospitalization or care  
3 facilities under its management and control;

4 (3) hospitalization or care facilities maintained by  
5 the federal government or agencies thereof;

6 (4) hospitalization or care facilities maintained by  
7 any university or college established under the laws of  
8 this State and supported principally by public funds raised  
9 by taxation;

10 (5) any person or facility required to be licensed  
11 pursuant to the Alcoholism and Other Drug Abuse and  
12 Dependency Act;

13 (6) any facility operated solely by and for persons who  
14 rely exclusively upon treatment by spiritual means through  
15 prayer, in accordance with the creed or tenets of any  
16 well-recognized church or religious denomination; or

17 (7) An Alzheimer's disease management center  
18 alternative health care model licensed under the  
19 Alternative Health Care Delivery Act.

20 (B) "Person" means the State, and any political subdivision  
21 or municipal corporation, individual, firm, partnership,  
22 corporation, company, association, or joint stock association,  
23 or the legal successor thereof.

24 (C) "Department" means the Department of Public Health of  
25 the State of Illinois.

26 (D) "Director" means the Director of Public Health of the

1 State of Illinois.

2 (E) "Perinatal" means the period of time between the  
3 conception of an infant and the end of the first month after  
4 birth.

5 (F) "Federally designated organ procurement agency" means  
6 the organ procurement agency designated by the Secretary of the  
7 U.S. Department of Health and Human Services for the service  
8 area in which a hospital is located; except that in the case of  
9 a hospital located in a county adjacent to Wisconsin which  
10 currently contracts with an organ procurement agency located in  
11 Wisconsin that is not the organ procurement agency designated  
12 by the U.S. Secretary of Health and Human Services for the  
13 service area in which the hospital is located, if the hospital  
14 applies for a waiver pursuant to 42 USC 1320b-8(a), it may  
15 designate an organ procurement agency located in Wisconsin to  
16 be thereafter deemed its federally designated organ  
17 procurement agency for the purposes of this Act.

18 (G) "Tissue bank" means any facility or program operating  
19 in Illinois that is certified by the American Association of  
20 Tissue Banks or the Eye Bank Association of America and is  
21 involved in procuring, furnishing, donating, or distributing  
22 corneas, bones, or other human tissue for the purpose of  
23 injecting, transfusing, or transplanting any of them into the  
24 human body. "Tissue bank" does not include a licensed blood  
25 bank. For the purposes of this Act, "tissue" does not include  
26 organs.

1 (Source: P.A. 91-838, eff. 6-16-00.)

2 (210 ILCS 85/6.09) (from Ch. 111 1/2, par. 147.09)

3 Sec. 6.09. (a) In order to facilitate the orderly  
4 transition of aged and disabled patients from hospitals to  
5 post-hospital care, whenever a patient who qualifies for the  
6 federal Medicare program is hospitalized, the patient shall be  
7 notified of discharge at least 24 hours prior to discharge from  
8 the hospital. With regard to pending discharges to a skilled  
9 nursing facility, the hospital must notify the case  
10 coordination unit, as defined in 89 Ill. Adm. Code 240.260, at  
11 least 24 hours prior to discharge or, if home health services  
12 are ordered, the hospital must inform its designated case  
13 coordination unit, as defined in 89 Ill. Adm. Code 240.260, of  
14 the pending discharge and must provide the patient with the  
15 case coordination unit's telephone number and other contact  
16 information.

17 (b) Every hospital shall develop procedures for a physician  
18 with medical staff privileges at the hospital or any  
19 appropriate medical staff member to provide the discharge  
20 notice prescribed in subsection (a) of this Section. The  
21 procedures must include prohibitions against discharging or  
22 referring a patient to any of the following if unlicensed,  
23 uncertified, or unregistered: (i) a board and care facility, as  
24 defined in the Board and Care Home Act; (ii) an assisted living  
25 and shared housing establishment, as defined in the Assisted

1 Living and Shared Housing Act; (iii) a facility licensed under  
2 the Nursing Home Care Act or the MR/DD Community Care Act; (iv)  
3 a supportive living facility, as defined in Section 5-5.01a of  
4 the Illinois Public Aid Code; or (v) a free-standing hospice  
5 facility licensed under the Hospice Program Licensing Act if  
6 licensure, certification, or registration is required. The  
7 Department of Public Health shall annually provide hospitals  
8 with a list of licensed, certified, or registered board and  
9 care facilities, assisted living and shared housing  
10 establishments, nursing homes, supportive living facilities,  
11 and hospice facilities. Reliance upon this list by a hospital  
12 shall satisfy compliance with this requirement. The procedure  
13 may also include a waiver for any case in which a discharge  
14 notice is not feasible due to a short length of stay in the  
15 hospital by the patient, or for any case in which the patient  
16 voluntarily desires to leave the hospital before the expiration  
17 of the 24 hour period.

18 (c) At least 24 hours prior to discharge from the hospital,  
19 the patient shall receive written information on the patient's  
20 right to appeal the discharge pursuant to the federal Medicare  
21 program, including the steps to follow to appeal the discharge  
22 and the appropriate telephone number to call in case the  
23 patient intends to appeal the discharge.

24 (Source: P.A. 94-335, eff. 7-26-05; 95-80, eff. 8-13-07;  
25 95-651, eff. 10-11-07; 95-876, eff. 8-21-08.)

1 Section 90-115. The Language Assistance Services Act is  
2 amended by changing Section 10 as follows:

3 (210 ILCS 87/10)

4 Sec. 10. Definitions. As used in this Act:

5 "Department" means the Department of Public Health.

6 "Interpreter" means a person fluent in English and in the  
7 necessary language of the patient who can accurately speak,  
8 read, and readily interpret the necessary second language, or a  
9 person who can accurately sign and read sign language.  
10 Interpreters shall have the ability to translate the names of  
11 body parts and to describe completely symptoms and injuries in  
12 both languages. Interpreters may include members of the medical  
13 or professional staff.

14 "Language or communication barriers" means either of the  
15 following:

16 (1) With respect to spoken language, barriers that are  
17 experienced by limited-English-speaking or  
18 non-English-speaking individuals who speak the same  
19 primary language, if those individuals constitute at least  
20 5% of the patients served by the health facility annually.

21 (2) With respect to sign language, barriers that are  
22 experienced by individuals who are deaf and whose primary  
23 language is sign language.

24 "Health facility" means a hospital licensed under the  
25 Hospital Licensing Act, ~~or~~ a long-term care facility licensed

1 under the Nursing Home Care Act, or a facility licensed under  
2 the MR/DD Community Care Act.

3 (Source: P.A. 93-564, eff. 1-1-04.)

4 Section 90-120. The Community-Integrated Living  
5 Arrangements Licensure and Certification Act is amended by  
6 changing Section 4 as follows:

7 (210 ILCS 135/4) (from Ch. 91 1/2, par. 1704)

8 Sec. 4. (a) Any community mental health or developmental  
9 services agency who wishes to develop and support a variety of  
10 community-integrated living arrangements may do so pursuant to  
11 a license issued by the Department under this Act. However,  
12 programs established under or otherwise subject to the Child  
13 Care Act of 1969, ~~or~~ the Nursing Home Care Act, or the MR/DD  
14 Community Care Act, as now or hereafter amended, shall remain  
15 subject thereto, and this Act shall not be construed to limit  
16 the application of those Acts.

17 (b) The system of licensure established under this Act  
18 shall be for the purposes of:

19 (1) Insuring that all recipients residing in  
20 community-integrated living arrangements are receiving  
21 appropriate community-based services, including treatment,  
22 training and habilitation or rehabilitation;

23 (2) Insuring that recipients' rights are protected and that  
24 all programs provided to and placements arranged for recipients

1 comply with this Act, the Mental Health and Developmental  
2 Disabilities Code, and applicable Department rules and  
3 regulations;

4 (3) Maintaining the integrity of communities by requiring  
5 regular monitoring and inspection of placements and other  
6 services provided in community-integrated living arrangements.

7 The licensure system shall be administered by a quality  
8 assurance unit within the Department which shall be  
9 administratively independent of units responsible for funding  
10 of agencies or community services.

11 (c) As a condition of being licensed by the Department as a  
12 community mental health or developmental services agency under  
13 this Act, the agency shall certify to the Department that:

14 (1) All recipients residing in community-integrated living  
15 arrangements are receiving appropriate community-based  
16 services, including treatment, training and habilitation or  
17 rehabilitation;

18 (2) All programs provided to and placements arranged for  
19 recipients are supervised by the agency; and

20 (3) All programs provided to and placements arranged for  
21 recipients comply with this Act, the Mental Health and  
22 Developmental Disabilities Code, and applicable Department  
23 rules and regulations.

24 (d) An applicant for licensure as a community mental health  
25 or developmental services agency under this Act shall submit an  
26 application pursuant to the application process established by

1 the Department by rule and shall pay an application fee in an  
2 amount established by the Department, which amount shall not be  
3 more than \$200.

4 (e) If an applicant meets the requirements established by  
5 the Department to be licensed as a community mental health or  
6 developmental services agency under this Act, after payment of  
7 the licensing fee, the Department shall issue a license valid  
8 for 3 years from the date thereof unless suspended or revoked  
9 by the Department or voluntarily surrendered by the agency.

10 (f) Upon application to the Department, the Department may  
11 issue a temporary permit to an applicant for a 6-month period  
12 to allow the holder of such permit reasonable time to become  
13 eligible for a license under this Act.

14 (g) (1) The Department may conduct site visits to an agency  
15 licensed under this Act, or to any program or placement  
16 certified by the agency, and inspect the records or premises,  
17 or both, of such agency, program or placement as it deems  
18 appropriate, for the purpose of determining compliance with  
19 this Act, the Mental Health and Developmental Disabilities  
20 Code, and applicable Department rules and regulations.

21 (2) If the Department determines that an agency licensed  
22 under this Act is not in compliance with this Act or the rules  
23 and regulations promulgated under this Act, the Department  
24 shall serve a notice of violation upon the licensee. Each  
25 notice of violation shall be prepared in writing and shall  
26 specify the nature of the violation, the statutory provision or

1 rule alleged to have been violated, and that the licensee  
2 submit a plan of correction to the Department if required. The  
3 notice shall also inform the licensee of any other action which  
4 the Department might take pursuant to this Act and of the right  
5 to a hearing.

6 (h) Upon the expiration of any license issued under this  
7 Act, a license renewal application shall be required of and a  
8 license renewal fee in an amount established by the Department  
9 shall be charged to a community mental health or developmental  
10 services agency, provided that such fee shall not be more than  
11 \$200.

12 (Source: P.A. 86-820.)

13 Section 90-125. The Child Care Act of 1969 is amended by  
14 changing Section 2.06 as follows:

15 (225 ILCS 10/2.06) (from Ch. 23, par. 2212.06)

16 Sec. 2.06. "Child care institution" means a child care  
17 facility where more than 7 children are received and maintained  
18 for the purpose of providing them with care or training or  
19 both. The term "child care institution" includes residential  
20 schools, primarily serving ambulatory handicapped children,  
21 and those operating a full calendar year, but does not include:

22 (a) Any State-operated institution for child care  
23 established by legislative action;

24 (b) Any juvenile detention or shelter care home established

1 and operated by any county or child protection district  
2 established under the "Child Protection Act";

3 (c) Any institution, home, place or facility operating  
4 under a license pursuant to the Nursing Home Care Act or the  
5 MR/DD Community Care Act;

6 (d) Any bona fide boarding school in which children are  
7 primarily taught branches of education corresponding to those  
8 taught in public schools, grades one through 12, or taught in  
9 public elementary schools, high schools, or both elementary and  
10 high schools, and which operates on a regular academic school  
11 year basis; or

12 (e) Any facility licensed as a "group home" as defined in  
13 this Act.

14 (Source: P.A. 86-820.)

15 Section 90-130. The Health Care Worker Background Check Act  
16 is amended by changing Section 15 as follows:

17 (225 ILCS 46/15)

18 Sec. 15. Definitions. In this Act:

19 "Applicant" means an individual seeking employment with a  
20 health care employer who has received a bona fide conditional  
21 offer of employment.

22 "Conditional offer of employment" means a bona fide offer  
23 of employment by a health care employer to an applicant, which  
24 is contingent upon the receipt of a report from the Department

1 of Public Health indicating that the applicant does not have a  
2 record of conviction of any of the criminal offenses enumerated  
3 in Section 25.

4 "Direct care" means the provision of nursing care or  
5 assistance with feeding, dressing, movement, bathing,  
6 toileting, or other personal needs, including home services as  
7 defined in the Home Health, Home Services, and Home Nursing  
8 Agency Licensing Act. The entity responsible for inspecting and  
9 licensing, certifying, or registering the health care employer  
10 may, by administrative rule, prescribe guidelines for  
11 interpreting this definition with regard to the health care  
12 employers that it licenses.

13 "Disqualifying offenses" means those offenses set forth in  
14 Section 25 of this Act.

15 "Employee" means any individual hired, employed, or  
16 retained to which this Act applies.

17 "Fingerprint-based criminal history records check" means a  
18 livescan fingerprint-based criminal history records check  
19 submitted as a fee applicant inquiry in the form and manner  
20 prescribed by the Department of State Police.

21 "Health care employer" means:

22 (1) the owner or licensee of any of the following:

23 (i) a community living facility, as defined in the  
24 Community Living Facilities Act;

25 (ii) a life care facility, as defined in the Life  
26 Care Facilities Act;

- 1 (iii) a long-term care facility;
- 2 (iv) a home health agency, home services agency, or  
3 home nursing agency as defined in the Home Health, Home  
4 Services, and Home Nursing Agency Licensing Act;
- 5 (v) a hospice care program or volunteer hospice  
6 program, as defined in the Hospice Program Licensing  
7 Act;
- 8 (vi) a hospital, as defined in the Hospital  
9 Licensing Act;
- 10 (vii) (blank);
- 11 (viii) a nurse agency, as defined in the Nurse  
12 Agency Licensing Act;
- 13 (ix) a respite care provider, as defined in the  
14 Respite Program Act;
- 15 (ix-a) an establishment licensed under the  
16 Assisted Living and Shared Housing Act;
- 17 (x) a supportive living program, as defined in the  
18 Illinois Public Aid Code;
- 19 (xi) early childhood intervention programs as  
20 described in 59 Ill. Adm. Code 121;
- 21 (xii) the University of Illinois Hospital,  
22 Chicago;
- 23 (xiii) programs funded by the Department on Aging  
24 through the Community Care Program;
- 25 (xiv) programs certified to participate in the  
26 Supportive Living Program authorized pursuant to

1 Section 5-5.01a of the Illinois Public Aid Code;  
2 (xv) programs listed by the Emergency Medical  
3 Services (EMS) Systems Act as Freestanding Emergency  
4 Centers;

5 (xvi) locations licensed under the Alternative  
6 Health Care Delivery Act;

7 (2) a day training program certified by the Department  
8 of Human Services;

9 (3) a community integrated living arrangement operated  
10 by a community mental health and developmental service  
11 agency, as defined in the Community-Integrated Living  
12 Arrangements Licensing and Certification Act; or

13 (4) the State Long Term Care Ombudsman Program,  
14 including any regional long term care ombudsman programs  
15 under Section 4.04 of the Illinois Act on the Aging, only  
16 for the purpose of securing background checks.

17 "Initiate" means obtaining from a student, applicant, or  
18 employee his or her social security number, demographics, a  
19 disclosure statement, and an authorization for the Department  
20 of Public Health or its designee to request a fingerprint-based  
21 criminal history records check; transmitting this information  
22 electronically to the Department of Public Health; conducting  
23 Internet searches on certain web sites, including without  
24 limitation the Illinois Sex Offender Registry, the Department  
25 of Corrections' Sex Offender Search Engine, the Department of  
26 Corrections' Inmate Search Engine, the Department of

1 Corrections Wanted Fugitives Search Engine, the National Sex  
2 Offender Public Registry, and the website of the Health and  
3 Human Services Office of Inspector General to determine if the  
4 applicant has been adjudicated a sex offender, has been a  
5 prison inmate, or has committed Medicare or Medicaid fraud, or  
6 conducting similar searches as defined by rule; and having the  
7 student, applicant, or employee's fingerprints collected and  
8 transmitted electronically to the Department of State Police.

9 "Livescan vendor" means an entity whose equipment has been  
10 certified by the Department of State Police to collect an  
11 individual's demographics and inkless fingerprints and, in a  
12 manner prescribed by the Department of State Police and the  
13 Department of Public Health, electronically transmit the  
14 fingerprints and required data to the Department of State  
15 Police and a daily file of required data to the Department of  
16 Public Health. The Department of Public Health shall negotiate  
17 a contract with one or more vendors that effectively  
18 demonstrate that the vendor has 2 or more years of experience  
19 transmitting fingerprints electronically to the Department of  
20 State Police and that the vendor can successfully transmit the  
21 required data in a manner prescribed by the Department of  
22 Public Health. Vendor authorization may be further defined by  
23 administrative rule.

24 "Long-term care facility" means a facility licensed by the  
25 State or certified under federal law as a long-term care  
26 facility, including without limitation facilities licensed

1 under the Nursing Home Care Act or the MR/DD Community Care  
2 Act, a supportive living facility, an assisted living  
3 establishment, or a shared housing establishment or registered  
4 as a board and care home.

5 (Source: P.A. 94-379, eff. 1-1-06; 94-570, eff. 8-12-05;  
6 94-665, eff. 1-1-06; 95-120, eff. 8-13-07; 95-331, eff.  
7 8-21-07.)

8 Section 90-135. The Nursing Home Administrators Licensing  
9 and Disciplinary Act is amended by changing Sections 4 and 17  
10 as follows:

11 (225 ILCS 70/4) (from Ch. 111, par. 3654)

12 (Section scheduled to be repealed on January 1, 2018)

13 Sec. 4. Definitions. For purposes of this Act, the  
14 following definitions shall have the following meanings,  
15 except where the context requires otherwise:

16 (1) "Act" means the Nursing Home Administrators  
17 Licensing and Disciplinary Act.

18 (2) "Department" means the Department of Financial and  
19 Professional Regulation.

20 (3) "Secretary" means the Secretary of Financial and  
21 Professional Regulation.

22 (4) "Board" means the Nursing Home Administrators  
23 Licensing and Disciplinary Board appointed by the  
24 Governor.

1           (5) "Nursing home administrator" means the individual  
2 licensed under this Act and directly responsible for  
3 planning, organizing, directing and supervising the  
4 operation of a nursing home, or who in fact performs such  
5 functions, whether or not such functions are delegated to  
6 one or more other persons.

7           (6) "Nursing home" or "facility" means any entity that  
8 is required to be licensed by the Department of Public  
9 Health under the Nursing Home Care Act or the MR/DD  
10 Community Care Act, as amended, other than a sheltered care  
11 home as defined thereunder, and includes private homes,  
12 institutions, buildings, residences, or other places,  
13 whether operated for profit or not, irrespective of the  
14 names attributed to them, county homes for the infirm and  
15 chronically ill operated pursuant to the County Nursing  
16 Home Act, as amended, and any similar institutions operated  
17 by a political subdivision of the State of Illinois that  
18 provide, though their ownership or management,  
19 maintenance, personal care, and nursing for 3 or more  
20 persons, not related to the owner by blood or marriage, or  
21 any similar facilities in which maintenance is provided to  
22 3 or more persons who by reason of illness of physical  
23 infirmity require personal care and nursing.

24           (7) "Maintenance" means food, shelter and laundry.

25           (8) "Personal care" means assistance with meals,  
26 dressing, movement, bathing, or other personal needs, or

1 general supervision of the physical and mental well-being  
2 of an individual who because of age, physical, or mental  
3 disability, emotion or behavior disorder, or mental  
4 retardation is incapable of managing his or her person,  
5 whether or not a guardian has been appointed for such  
6 individual. For the purposes of this Act, this definition  
7 does not include the professional services of a nurse.

8 (9) "Nursing" means professional nursing or practical  
9 nursing, as those terms are defined in the Nurse Practice  
10 Act, for sick or infirm persons who are under the care and  
11 supervision of licensed physicians or dentists.

12 (10) "Disciplinary action" means revocation,  
13 suspension, probation, supervision, reprimand, required  
14 education, fines or any other action taken by the  
15 Department against a person holding a license.

16 (11) "Impaired" means the inability to practice with  
17 reasonable skill and safety due to physical or mental  
18 disabilities as evidenced by a written determination or  
19 written consent based on clinical evidence including  
20 deterioration through the aging process or loss of motor  
21 skill, or abuse of drugs or alcohol, of sufficient degree  
22 to diminish a person's ability to administer a nursing  
23 home.

24 (12) "Address of record" means the designated address  
25 recorded by the Department in the applicant's or licensee's  
26 application file or license file maintained by the

1 Department's licensure maintenance unit. It is the duty of  
2 the applicant or licensee to inform the Department of any  
3 change of address, and such changes must be made either  
4 through the Department's website or by contacting the  
5 Department's licensure maintenance unit.

6 (Source: P.A. 95-639, eff. 10-5-07; 95-703, eff. 12-31-07;  
7 revised 1-7-08.)

8 (225 ILCS 70/17) (from Ch. 111, par. 3667)

9 (Section scheduled to be repealed on January 1, 2018)

10 Sec. 17. Grounds for disciplinary action.

11 (a) The Department may impose fines not to exceed \$10,000  
12 or may refuse to issue or to renew, or may revoke, suspend,  
13 place on probation, censure, reprimand or take other  
14 disciplinary or non-disciplinary action with regard to the  
15 license of any person, for any one or combination of the  
16 following causes:

17 (1) Intentional material misstatement in furnishing  
18 information to the Department.

19 (2) Conviction of or entry of a plea of guilty or nolo  
20 contendere to any crime that is a felony under the laws of  
21 the United States or any state or territory thereof or a  
22 misdemeanor of which an essential element is dishonesty or  
23 that is directly related to the practice of the profession  
24 of nursing home administration.

25 (3) Making any misrepresentation for the purpose of

1 obtaining a license, or violating any provision of this  
2 Act.

3 (4) Immoral conduct in the commission of any act, such  
4 as sexual abuse or sexual misconduct, related to the  
5 licensee's practice.

6 (5) Failing to respond within 30 days, to a written  
7 request made by the Department for information.

8 (6) Engaging in dishonorable, unethical or  
9 unprofessional conduct of a character likely to deceive,  
10 defraud or harm the public.

11 (7) Habitual use or addiction to alcohol, narcotics,  
12 stimulants, or any other chemical agent or drug which  
13 results in the inability to practice with reasonable  
14 judgment, skill or safety.

15 (8) Discipline by another U.S. jurisdiction if at least  
16 one of the grounds for the discipline is the same or  
17 substantially equivalent to those set forth herein.

18 (9) A finding by the Department that the licensee,  
19 after having his or her license placed on probationary  
20 status has violated the terms of probation.

21 (10) Willfully making or filing false records or  
22 reports in his or her practice, including but not limited  
23 to false records filed with State agencies or departments.

24 (11) Physical illness, mental illness, or other  
25 impairment or disability, including, but not limited to,  
26 deterioration through the aging process, or loss of motor

1 skill that results in the inability to practice the  
2 profession with reasonable judgment, skill or safety.

3 (12) Disregard or violation of this Act or of any rule  
4 issued pursuant to this Act.

5 (13) Aiding or abetting another in the violation of  
6 this Act or any rule or regulation issued pursuant to this  
7 Act.

8 (14) Allowing one's license to be used by an unlicensed  
9 person.

10 (15) (Blank).

11 (16) Professional incompetence in the practice of  
12 nursing home administration.

13 (17) Conviction of a violation of Section 12-19 of the  
14 Criminal Code of 1961 for the abuse and gross neglect of a  
15 long term care facility resident.

16 (18) Violation of the Nursing Home Care Act or the  
17 MR/DD Community Care Act or of any rule issued under the  
18 Nursing Home Care Act or the MR/DD Community Care Act.

19 All proceedings to suspend, revoke, place on probationary  
20 status, or take any other disciplinary action as the Department  
21 may deem proper, with regard to a license on any of the  
22 foregoing grounds, must be commenced within 5 years next after  
23 receipt by the Department of (i) a complaint alleging the  
24 commission of or notice of the conviction order for any of the  
25 acts described herein or (ii) a referral for investigation  
26 under Section 3-108 of the Nursing Home Care Act.

1           The entry of an order or judgment by any circuit court  
2 establishing that any person holding a license under this Act  
3 is a person in need of mental treatment operates as a  
4 suspension of that license. That person may resume their  
5 practice only upon the entry of a Department order based upon a  
6 finding by the Board that they have been determined to be  
7 recovered from mental illness by the court and upon the Board's  
8 recommendation that they be permitted to resume their practice.

9           The Department, upon the recommendation of the Board, may  
10 adopt rules which set forth standards to be used in determining  
11 what constitutes:

12           (i) when a person will be deemed sufficiently  
13 rehabilitated to warrant the public trust;

14           (ii) dishonorable, unethical or unprofessional conduct  
15 of a character likely to deceive, defraud, or harm the  
16 public;

17           (iii) immoral conduct in the commission of any act  
18 related to the licensee's practice; and

19           (iv) professional incompetence in the practice of  
20 nursing home administration.

21           However, no such rule shall be admissible into evidence in  
22 any civil action except for review of a licensing or other  
23 disciplinary action under this Act.

24           In enforcing this Section, the Department or Board, upon a  
25 showing of a possible violation, may compel any individual  
26 licensed to practice under this Act, or who has applied for

1 licensure pursuant to this Act, to submit to a mental or  
2 physical examination, or both, as required by and at the  
3 expense of the Department. The examining physician or  
4 physicians shall be those specifically designated by the  
5 Department or Board. The Department or Board may order the  
6 examining physician to present testimony concerning this  
7 mental or physical examination of the licensee or applicant. No  
8 information shall be excluded by reason of any common law or  
9 statutory privilege relating to communications between the  
10 licensee or applicant and the examining physician. The  
11 individual to be examined may have, at his or her own expense,  
12 another physician of his or her choice present during all  
13 aspects of the examination. Failure of any individual to submit  
14 to mental or physical examination, when directed, shall be  
15 grounds for suspension of his or her license until such time as  
16 the individual submits to the examination if the Department  
17 finds, after notice and hearing, that the refusal to submit to  
18 the examination was without reasonable cause.

19 If the Department or Board finds an individual unable to  
20 practice because of the reasons set forth in this Section, the  
21 Department or Board shall require such individual to submit to  
22 care, counseling, or treatment by physicians approved or  
23 designated by the Department or Board, as a condition, term, or  
24 restriction for continued, reinstated, or renewed licensure to  
25 practice; or in lieu of care, counseling, or treatment, the  
26 Department may file, or the Board may recommend to the

1 Department to file, a complaint to immediately suspend, revoke,  
2 or otherwise discipline the license of the individual. Any  
3 individual whose license was granted pursuant to this Act or  
4 continued, reinstated, renewed, disciplined or supervised,  
5 subject to such terms, conditions or restrictions who shall  
6 fail to comply with such terms, conditions or restrictions  
7 shall be referred to the Secretary for a determination as to  
8 whether the licensee shall have his or her license suspended  
9 immediately, pending a hearing by the Department. In instances  
10 in which the Secretary immediately suspends a license under  
11 this Section, a hearing upon such person's license must be  
12 convened by the Board within 30 days after such suspension and  
13 completed without appreciable delay. The Department and Board  
14 shall have the authority to review the subject administrator's  
15 record of treatment and counseling regarding the impairment, to  
16 the extent permitted by applicable federal statutes and  
17 regulations safeguarding the confidentiality of medical  
18 records.

19 An individual licensed under this Act, affected under this  
20 Section, shall be afforded an opportunity to demonstrate to the  
21 Department or Board that he or she can resume practice in  
22 compliance with acceptable and prevailing standards under the  
23 provisions of his or her license.

24 (b) Any individual or organization acting in good faith,  
25 and not in a wilful and wanton manner, in complying with this  
26 Act by providing any report or other information to the

1 Department, or assisting in the investigation or preparation of  
2 such information, or by participating in proceedings of the  
3 Department, or by serving as a member of the Board, shall not,  
4 as a result of such actions, be subject to criminal prosecution  
5 or civil damages.

6 (c) Members of the Board, and persons retained under  
7 contract to assist and advise in an investigation, shall be  
8 indemnified by the State for any actions occurring within the  
9 scope of services on or for the Board, done in good faith and  
10 not wilful and wanton in nature. The Attorney General shall  
11 defend all such actions unless he or she determines either that  
12 there would be a conflict of interest in such representation or  
13 that the actions complained of were not in good faith or were  
14 wilful and wanton.

15 Should the Attorney General decline representation, a  
16 person entitled to indemnification under this Section shall  
17 have the right to employ counsel of his or her choice, whose  
18 fees shall be provided by the State, after approval by the  
19 Attorney General, unless there is a determination by a court  
20 that the member's actions were not in good faith or were wilful  
21 and wanton.

22 A person entitled to indemnification under this Section  
23 must notify the Attorney General within 7 days of receipt of  
24 notice of the initiation of any action involving services of  
25 the Board. Failure to so notify the Attorney General shall  
26 constitute an absolute waiver of the right to a defense and

1 indemnification.

2 The Attorney General shall determine within 7 days after  
3 receiving such notice, whether he or she will undertake to  
4 represent a person entitled to indemnification under this  
5 Section.

6 (d) The determination by a circuit court that a licensee is  
7 subject to involuntary admission or judicial admission as  
8 provided in the Mental Health and Developmental Disabilities  
9 Code, as amended, operates as an automatic suspension. Such  
10 suspension will end only upon a finding by a court that the  
11 patient is no longer subject to involuntary admission or  
12 judicial admission and issues an order so finding and  
13 discharging the patient; and upon the recommendation of the  
14 Board to the Secretary that the licensee be allowed to resume  
15 his or her practice.

16 (e) The Department may refuse to issue or may suspend the  
17 license of any person who fails to file a return, or to pay the  
18 tax, penalty or interest shown in a filed return, or to pay any  
19 final assessment of tax, penalty or interest, as required by  
20 any tax Act administered by the Department of Revenue, until  
21 such time as the requirements of any such tax Act are  
22 satisfied.

23 (f) The Department of Public Health shall transmit to the  
24 Department a list of those facilities which receive an "A"  
25 violation as defined in Section 1-129 of the Nursing Home Care  
26 Act.

1 (Source: P.A. 95-703, eff. 12-31-07.)

2 Section 90-140. The Pharmacy Practice Act is amended by  
3 changing Section 3 as follows:

4 (225 ILCS 85/3) (from Ch. 111, par. 4123)

5 (Section scheduled to be repealed on January 1, 2018)

6 Sec. 3. Definitions. For the purpose of this Act, except  
7 where otherwise limited therein:

8 (a) "Pharmacy" or "drugstore" means and includes every  
9 store, shop, pharmacy department, or other place where  
10 pharmacist care is provided by a pharmacist (1) where drugs,  
11 medicines, or poisons are dispensed, sold or offered for sale  
12 at retail, or displayed for sale at retail; or (2) where  
13 prescriptions of physicians, dentists, advanced practice  
14 nurses, physician assistants, veterinarians, podiatrists, or  
15 optometrists, within the limits of their licenses, are  
16 compounded, filled, or dispensed; or (3) which has upon it or  
17 displayed within it, or affixed to or used in connection with  
18 it, a sign bearing the word or words "Pharmacist", "Druggist",  
19 "Pharmacy", "Pharmaceutical Care", "Apothecary", "Drugstore",  
20 "Medicine Store", "Prescriptions", "Drugs", "Dispensary",  
21 "Medicines", or any word or words of similar or like import,  
22 either in the English language or any other language; or (4)  
23 where the characteristic prescription sign (Rx) or similar  
24 design is exhibited; or (5) any store, or shop, or other place

1 with respect to which any of the above words, objects, signs or  
2 designs are used in any advertisement.

3 (b) "Drugs" means and includes (1) articles recognized in  
4 the official United States Pharmacopoeia/National Formulary  
5 (USP/NF), or any supplement thereto and being intended for and  
6 having for their main use the diagnosis, cure, mitigation,  
7 treatment or prevention of disease in man or other animals, as  
8 approved by the United States Food and Drug Administration, but  
9 does not include devices or their components, parts, or  
10 accessories; and (2) all other articles intended for and having  
11 for their main use the diagnosis, cure, mitigation, treatment  
12 or prevention of disease in man or other animals, as approved  
13 by the United States Food and Drug Administration, but does not  
14 include devices or their components, parts, or accessories; and  
15 (3) articles (other than food) having for their main use and  
16 intended to affect the structure or any function of the body of  
17 man or other animals; and (4) articles having for their main  
18 use and intended for use as a component or any articles  
19 specified in clause (1), (2) or (3); but does not include  
20 devices or their components, parts or accessories.

21 (c) "Medicines" means and includes all drugs intended for  
22 human or veterinary use approved by the United States Food and  
23 Drug Administration.

24 (d) "Practice of pharmacy" means (1) the interpretation and  
25 the provision of assistance in the monitoring, evaluation, and  
26 implementation of prescription drug orders; (2) the dispensing

1 of prescription drug orders; (3) participation in drug and  
2 device selection; (4) drug administration limited to the  
3 administration of oral, topical, injectable, and inhalation as  
4 follows: in the context of patient education on the proper use  
5 or delivery of medications; vaccination of patients 14 years of  
6 age and older pursuant to a valid prescription or standing  
7 order, by a physician licensed to practice medicine in all its  
8 branches, upon completion of appropriate training, including  
9 how to address contraindications and adverse reactions set  
10 forth by rule, with notification to the patient's physician and  
11 appropriate record retention, or pursuant to hospital pharmacy  
12 and therapeutics committee policies and procedures; (5) drug  
13 regimen review; (6) drug or drug-related research; (7) the  
14 provision of patient counseling; (8) the practice of  
15 telepharmacy; (9) the provision of those acts or services  
16 necessary to provide pharmacist care; (10) medication therapy  
17 management; and (11) the responsibility for compounding and  
18 labeling of drugs and devices (except labeling by a  
19 manufacturer, repackager, or distributor of non-prescription  
20 drugs and commercially packaged legend drugs and devices),  
21 proper and safe storage of drugs and devices, and maintenance  
22 of required records. A pharmacist who performs any of the acts  
23 defined as the practice of pharmacy in this State must be  
24 actively licensed as a pharmacist under this Act.

25 (e) "Prescription" means and includes any written, oral,  
26 facsimile, or electronically transmitted order for drugs or

1 medical devices, issued by a physician licensed to practice  
2 medicine in all its branches, dentist, veterinarian, or  
3 podiatrist, or optometrist, within the limits of their  
4 licenses, by a physician assistant in accordance with  
5 subsection (f) of Section 4, or by an advanced practice nurse  
6 in accordance with subsection (g) of Section 4, containing the  
7 following: (1) name of the patient; (2) date when prescription  
8 was issued; (3) name and strength of drug or description of the  
9 medical device prescribed; and (4) quantity, (5) directions for  
10 use, (6) prescriber's name, address and signature, and (7) DEA  
11 number where required, for controlled substances. DEA numbers  
12 shall not be required on inpatient drug orders.

13 (f) "Person" means and includes a natural person,  
14 copartnership, association, corporation, government entity, or  
15 any other legal entity.

16 (g) "Department" means the Department of Financial and  
17 Professional Regulation.

18 (h) "Board of Pharmacy" or "Board" means the State Board of  
19 Pharmacy of the Department of Financial and Professional  
20 Regulation.

21 (i) "Secretary" means the Secretary of Financial and  
22 Professional Regulation.

23 (j) "Drug product selection" means the interchange for a  
24 prescribed pharmaceutical product in accordance with Section  
25 25 of this Act and Section 3.14 of the Illinois Food, Drug and  
26 Cosmetic Act.

1 (k) "Inpatient drug order" means an order issued by an  
2 authorized prescriber for a resident or patient of a facility  
3 licensed under the Nursing Home Care Act, the MR/DD Community  
4 Care Act, or the Hospital Licensing Act, or "An Act in relation  
5 to the founding and operation of the University of Illinois  
6 Hospital and the conduct of University of Illinois health care  
7 programs", approved July 3, 1931, as amended, or a facility  
8 which is operated by the Department of Human Services (as  
9 successor to the Department of Mental Health and Developmental  
10 Disabilities) or the Department of Corrections.

11 (k-5) "Pharmacist" means an individual health care  
12 professional and provider currently licensed by this State to  
13 engage in the practice of pharmacy.

14 (l) "Pharmacist in charge" means the licensed pharmacist  
15 whose name appears on a pharmacy license and who is responsible  
16 for all aspects of the operation related to the practice of  
17 pharmacy.

18 (m) "Dispense" or "dispensing" means the interpretation,  
19 evaluation, and implementation of a prescription drug order,  
20 including the preparation and delivery of a drug or device to a  
21 patient or patient's agent in a suitable container  
22 appropriately labeled for subsequent administration to or use  
23 by a patient in accordance with applicable State and federal  
24 laws and regulations. "Dispense" or "dispensing" does not mean  
25 the physical delivery to a patient or a patient's  
26 representative in a home or institution by a designee of a

1 pharmacist or by common carrier. "Dispense" or "dispensing"  
2 also does not mean the physical delivery of a drug or medical  
3 device to a patient or patient's representative by a  
4 pharmacist's designee within a pharmacy or drugstore while the  
5 pharmacist is on duty and the pharmacy is open.

6 (n) "Nonresident pharmacy" means a pharmacy that is located  
7 in a state, commonwealth, or territory of the United States,  
8 other than Illinois, that delivers, dispenses, or distributes,  
9 through the United States Postal Service, commercially  
10 acceptable parcel delivery service, or other common carrier, to  
11 Illinois residents, any substance which requires a  
12 prescription.

13 (o) "Compounding" means the preparation and mixing of  
14 components, excluding flavorings, (1) as the result of a  
15 prescriber's prescription drug order or initiative based on the  
16 prescriber-patient-pharmacist relationship in the course of  
17 professional practice or (2) for the purpose of, or incident  
18 to, research, teaching, or chemical analysis and not for sale  
19 or dispensing. "Compounding" includes the preparation of drugs  
20 or devices in anticipation of receiving prescription drug  
21 orders based on routine, regularly observed dispensing  
22 patterns. Commercially available products may be compounded  
23 for dispensing to individual patients only if all of the  
24 following conditions are met: (i) the commercial product is not  
25 reasonably available from normal distribution channels in a  
26 timely manner to meet the patient's needs and (ii) the

1     prescribing practitioner has requested that the drug be  
2     compounded.

3             (p) (Blank).

4             (q) (Blank).

5             (r) "Patient counseling" means the communication between a  
6     pharmacist or a pharmacy intern under the supervision of a  
7     pharmacist and a patient or the patient's representative about  
8     the patient's medication or device for the purpose of  
9     optimizing proper use of prescription medications or devices.  
10    "Patient counseling" may include without limitation (1)  
11    obtaining a medication history; (2) acquiring a patient's  
12    allergies and health conditions; (3) facilitation of the  
13    patient's understanding of the intended use of the medication;  
14    (4) proper directions for use; (5) significant potential  
15    adverse events; (6) potential food-drug interactions; and (7)  
16    the need to be compliant with the medication therapy. A  
17    pharmacy technician may only participate in the following  
18    aspects of patient counseling under the supervision of a  
19    pharmacist: (1) obtaining medication history; (2) providing  
20    the offer for counseling by a pharmacist or intern; and (3)  
21    acquiring a patient's allergies and health conditions.

22             (s) "Patient profiles" or "patient drug therapy record"  
23    means the obtaining, recording, and maintenance of patient  
24    prescription information, including prescriptions for  
25    controlled substances, and personal information.

26             (t) (Blank).

1           (u) "Medical device" means an instrument, apparatus,  
2           implement, machine, contrivance, implant, in vitro reagent, or  
3           other similar or related article, including any component part  
4           or accessory, required under federal law to bear the label  
5           "Caution: Federal law requires dispensing by or on the order of  
6           a physician". A seller of goods and services who, only for the  
7           purpose of retail sales, compounds, sells, rents, or leases  
8           medical devices shall not, by reasons thereof, be required to  
9           be a licensed pharmacy.

10          (v) "Unique identifier" means an electronic signature,  
11          handwritten signature or initials, thumb print, or other  
12          acceptable biometric or electronic identification process as  
13          approved by the Department.

14          (w) "Current usual and customary retail price" means the  
15          price that a pharmacy charges to a non-third-party payor .

16          (x) "Automated pharmacy system" means a mechanical system  
17          located within the confines of the pharmacy or remote location  
18          that performs operations or activities, other than compounding  
19          or administration, relative to storage, packaging, dispensing,  
20          or distribution of medication, and which collects, controls,  
21          and maintains all transaction information.

22          (y) "Drug regimen review" means and includes the evaluation  
23          of prescription drug orders and patient records for (1) known  
24          allergies; (2) drug or potential therapy contraindications;  
25          (3) reasonable dose, duration of use, and route of  
26          administration, taking into consideration factors such as age,

1 gender, and contraindications; (4) reasonable directions for  
2 use; (5) potential or actual adverse drug reactions; (6)  
3 drug-drug interactions; (7) drug-food interactions; (8)  
4 drug-disease contraindications; (9) therapeutic duplication;  
5 (10) patient laboratory values when authorized and available;  
6 (11) proper utilization (including over or under utilization)  
7 and optimum therapeutic outcomes; and (12) abuse and misuse.

8 (z) "Electronic transmission prescription" means any  
9 prescription order for which a facsimile or electronic image of  
10 the order is electronically transmitted from a licensed  
11 prescriber to a pharmacy. "Electronic transmission  
12 prescription" includes both data and image prescriptions.

13 (aa) "Medication therapy management services" means a  
14 distinct service or group of services offered by licensed  
15 pharmacists, physicians licensed to practice medicine in all  
16 its branches, advanced practice nurses authorized in a written  
17 agreement with a physician licensed to practice medicine in all  
18 its branches, or physician assistants authorized in guidelines  
19 by a supervising physician that optimize therapeutic outcomes  
20 for individual patients through improved medication use. In a  
21 retail or other non-hospital pharmacy, medication therapy  
22 management services shall consist of the evaluation of  
23 prescription drug orders and patient medication records to  
24 resolve conflicts with the following:

25 (1) known allergies;

26 (2) drug or potential therapy contraindications;

1 (3) reasonable dose, duration of use, and route of  
2 administration, taking into consideration factors such as  
3 age, gender, and contraindications;

4 (4) reasonable directions for use;

5 (5) potential or actual adverse drug reactions;

6 (6) drug-drug interactions;

7 (7) drug-food interactions;

8 (8) drug-disease contraindications;

9 (9) identification of therapeutic duplication;

10 (10) patient laboratory values when authorized and  
11 available;

12 (11) proper utilization (including over or under  
13 utilization) and optimum therapeutic outcomes; and

14 (12) drug abuse and misuse.

15 "Medication therapy management services" includes the  
16 following:

17 (1) documenting the services delivered and  
18 communicating the information provided to patients'  
19 prescribers within an appropriate time frame, not to exceed  
20 48 hours;

21 (2) providing patient counseling designed to enhance a  
22 patient's understanding and the appropriate use of his or  
23 her medications; and

24 (3) providing information, support services, and  
25 resources designed to enhance a patient's adherence with  
26 his or her prescribed therapeutic regimens.

1 "Medication therapy management services" may also include  
2 patient care functions authorized by a physician licensed to  
3 practice medicine in all its branches for his or her identified  
4 patient or groups of patients under specified conditions or  
5 limitations in a standing order from the physician.

6 "Medication therapy management services" in a licensed  
7 hospital may also include the following:

8 (1) reviewing assessments of the patient's health  
9 status; and

10 (2) following protocols of a hospital pharmacy and  
11 therapeutics committee with respect to the fulfillment of  
12 medication orders.

13 (bb) "Pharmacist care" means the provision by a pharmacist  
14 of medication therapy management services, with or without the  
15 dispensing of drugs or devices, intended to achieve outcomes  
16 that improve patient health, quality of life, and comfort and  
17 enhance patient safety.

18 (cc) "Protected health information" means individually  
19 identifiable health information that, except as otherwise  
20 provided, is:

21 (1) transmitted by electronic media;

22 (2) maintained in any medium set forth in the  
23 definition of "electronic media" in the federal Health  
24 Insurance Portability and Accountability Act; or

25 (3) transmitted or maintained in any other form or  
26 medium.

1 "Protected health information" does not include individually  
2 identifiable health information found in:

3 (1) education records covered by the federal  
4 Family Educational Right and Privacy Act; or

5 (2) employment records held by a licensee in its  
6 role as an employer.

7 (dd) "Standing order" means a specific order for a patient  
8 or group of patients issued by a physician licensed to practice  
9 medicine in all its branches in Illinois.

10 (ee) "Address of record" means the address recorded by the  
11 Department in the applicant's or licensee's application file or  
12 license file, as maintained by the Department's licensure  
13 maintenance unit.

14 (ff) "Home pharmacy" means the location of a pharmacy's  
15 primary operations.

16 (Source: P.A. 94-459, eff. 1-1-06; 95-689, eff. 10-29-07.)

17 Section 90-145. The Nurse Agency Licensing Act is amended  
18 by changing Section 3 as follows:

19 (225 ILCS 510/3) (from Ch. 111, par. 953)

20 Sec. 3. Definitions. As used in this Act:

21 (a) "Certified nurse aide" means an individual certified as  
22 defined in Section 3-206 of the Nursing Home Care Act or  
23 Section 3-206 of the MR/DD Community Care Act, as now or  
24 hereafter amended.

1 (b) "Department" means the Department of Labor.

2 (c) "Director" means the Director of Labor.

3 (d) "Health care facility" is defined as in Section 3 of  
4 the Illinois Health Facilities Planning Act, as now or  
5 hereafter amended.

6 (e) "Licensee" means any nursing agency which is properly  
7 licensed under this Act.

8 (f) "Nurse" means a registered nurse or a licensed  
9 practical nurse as defined in the Nurse Practice Act.

10 (g) "Nurse agency" means any individual, firm,  
11 corporation, partnership or other legal entity that employs,  
12 assigns or refers nurses or certified nurse aides to a health  
13 care facility for a fee. The term "nurse agency" includes  
14 nurses registries. The term "nurse agency" does not include  
15 services provided by home health agencies licensed and operated  
16 under the Home Health, Home Services, and Home Nursing Agency  
17 Licensing Act or a licensed or certified individual who  
18 provides his or her own services as a regular employee of a  
19 health care facility, nor does it apply to a health care  
20 facility's organizing nonsalaried employees to provide  
21 services only in that facility.

22 (Source: P.A. 94-379, eff. 1-1-06; 95-639, eff. 10-5-07.)

23 Section 90-150. The Illinois Public Aid Code is amended by  
24 changing Sections 5-5.4, 5-5.7, 5-6, 5B-1, 5B-8, 5E-5, and  
25 8A-11 as follows:

1 (305 ILCS 5/5-5.4) (from Ch. 23, par. 5-5.4)

2 Sec. 5-5.4. Standards of Payment - Department of Healthcare  
3 and Family Services. The Department of Healthcare and Family  
4 Services shall develop standards of payment of skilled nursing  
5 and intermediate care services in facilities providing such  
6 services under this Article which:

7 (1) Provide for the determination of a facility's payment  
8 for skilled nursing and intermediate care services on a  
9 prospective basis. The amount of the payment rate for all  
10 nursing facilities certified by the Department of Public Health  
11 under the MR/DD Community Care Act or the Nursing Home Care Act  
12 as Intermediate Care for the Developmentally Disabled  
13 facilities, Long Term Care for Under Age 22 facilities, Skilled  
14 Nursing facilities, or Intermediate Care facilities under the  
15 medical assistance program shall be prospectively established  
16 annually on the basis of historical, financial, and statistical  
17 data reflecting actual costs from prior years, which shall be  
18 applied to the current rate year and updated for inflation,  
19 except that the capital cost element for newly constructed  
20 facilities shall be based upon projected budgets. The annually  
21 established payment rate shall take effect on July 1 in 1984  
22 and subsequent years. No rate increase and no update for  
23 inflation shall be provided on or after July 1, 1994 and before  
24 July 1, 2009, unless specifically provided for in this Section.  
25 The changes made by Public Act 93-841 extending the duration of

1 the prohibition against a rate increase or update for inflation  
2 are effective retroactive to July 1, 2004.

3 For facilities licensed by the Department of Public Health  
4 under the Nursing Home Care Act as Intermediate Care for the  
5 Developmentally Disabled facilities or Long Term Care for Under  
6 Age 22 facilities, the rates taking effect on July 1, 1998  
7 shall include an increase of 3%. For facilities licensed by the  
8 Department of Public Health under the Nursing Home Care Act as  
9 Skilled Nursing facilities or Intermediate Care facilities,  
10 the rates taking effect on July 1, 1998 shall include an  
11 increase of 3% plus \$1.10 per resident-day, as defined by the  
12 Department. For facilities licensed by the Department of Public  
13 Health under the Nursing Home Care Act as Intermediate Care  
14 Facilities for the Developmentally Disabled or Long Term Care  
15 for Under Age 22 facilities, the rates taking effect on January  
16 1, 2006 shall include an increase of 3%. For facilities  
17 licensed by the Department of Public Health under the Nursing  
18 Home Care Act as Intermediate Care Facilities for the  
19 Developmentally Disabled or Long Term Care for Under Age 22  
20 facilities, the rates taking effect on January 1, 2009 shall  
21 include an increase sufficient to provide a \$0.50 per hour wage  
22 increase for non-executive staff.

23 For facilities licensed by the Department of Public Health  
24 under the Nursing Home Care Act as Intermediate Care for the  
25 Developmentally Disabled facilities or Long Term Care for Under  
26 Age 22 facilities, the rates taking effect on July 1, 1999

1 shall include an increase of 1.6% plus \$3.00 per resident-day,  
2 as defined by the Department. For facilities licensed by the  
3 Department of Public Health under the Nursing Home Care Act as  
4 Skilled Nursing facilities or Intermediate Care facilities,  
5 the rates taking effect on July 1, 1999 shall include an  
6 increase of 1.6% and, for services provided on or after October  
7 1, 1999, shall be increased by \$4.00 per resident-day, as  
8 defined by the Department.

9 For facilities licensed by the Department of Public Health  
10 under the Nursing Home Care Act as Intermediate Care for the  
11 Developmentally Disabled facilities or Long Term Care for Under  
12 Age 22 facilities, the rates taking effect on July 1, 2000  
13 shall include an increase of 2.5% per resident-day, as defined  
14 by the Department. For facilities licensed by the Department of  
15 Public Health under the Nursing Home Care Act as Skilled  
16 Nursing facilities or Intermediate Care facilities, the rates  
17 taking effect on July 1, 2000 shall include an increase of 2.5%  
18 per resident-day, as defined by the Department.

19 For facilities licensed by the Department of Public Health  
20 under the Nursing Home Care Act as skilled nursing facilities  
21 or intermediate care facilities, a new payment methodology must  
22 be implemented for the nursing component of the rate effective  
23 July 1, 2003. The Department of Public Aid (now Healthcare and  
24 Family Services) shall develop the new payment methodology  
25 using the Minimum Data Set (MDS) as the instrument to collect  
26 information concerning nursing home resident condition

1 necessary to compute the rate. The Department shall develop the  
2 new payment methodology to meet the unique needs of Illinois  
3 nursing home residents while remaining subject to the  
4 appropriations provided by the General Assembly. A transition  
5 period from the payment methodology in effect on June 30, 2003  
6 to the payment methodology in effect on July 1, 2003 shall be  
7 provided for a period not exceeding 3 years and 184 days after  
8 implementation of the new payment methodology as follows:

9 (A) For a facility that would receive a lower nursing  
10 component rate per patient day under the new system than  
11 the facility received effective on the date immediately  
12 preceding the date that the Department implements the new  
13 payment methodology, the nursing component rate per  
14 patient day for the facility shall be held at the level in  
15 effect on the date immediately preceding the date that the  
16 Department implements the new payment methodology until a  
17 higher nursing component rate of reimbursement is achieved  
18 by that facility.

19 (B) For a facility that would receive a higher nursing  
20 component rate per patient day under the payment  
21 methodology in effect on July 1, 2003 than the facility  
22 received effective on the date immediately preceding the  
23 date that the Department implements the new payment  
24 methodology, the nursing component rate per patient day for  
25 the facility shall be adjusted.

26 (C) Notwithstanding paragraphs (A) and (B), the

1 nursing component rate per patient day for the facility  
2 shall be adjusted subject to appropriations provided by the  
3 General Assembly.

4 For facilities licensed by the Department of Public Health  
5 under the Nursing Home Care Act as Intermediate Care for the  
6 Developmentally Disabled facilities or Long Term Care for Under  
7 Age 22 facilities, the rates taking effect on March 1, 2001  
8 shall include a statewide increase of 7.85%, as defined by the  
9 Department.

10 Notwithstanding any other provision of this Section, for  
11 facilities licensed by the Department of Public Health under  
12 the Nursing Home Care Act as skilled nursing facilities or  
13 intermediate care facilities, the numerator of the ratio used  
14 by the Department of Healthcare and Family Services to compute  
15 the rate payable under this Section using the Minimum Data Set  
16 (MDS) methodology shall incorporate the following annual  
17 amounts as the additional funds appropriated to the Department  
18 specifically to pay for rates based on the MDS nursing  
19 component methodology in excess of the funding in effect on  
20 December 31, 2006:

21 (i) For rates taking effect January 1, 2007,  
22 \$60,000,000.

23 (ii) For rates taking effect January 1, 2008,  
24 \$110,000,000.

25 (iii) For rates taking effect January 1, 2009,  
26 \$194,000,000.

1           Notwithstanding any other provision of this Section, for  
2 facilities licensed by the Department of Public Health under  
3 the Nursing Home Care Act as skilled nursing facilities or  
4 intermediate care facilities, the support component of the  
5 rates taking effect on January 1, 2008 shall be computed using  
6 the most recent cost reports on file with the Department of  
7 Healthcare and Family Services no later than April 1, 2005,  
8 updated for inflation to January 1, 2006.

9           For facilities licensed by the Department of Public Health  
10 under the Nursing Home Care Act as Intermediate Care for the  
11 Developmentally Disabled facilities or Long Term Care for Under  
12 Age 22 facilities, the rates taking effect on April 1, 2002  
13 shall include a statewide increase of 2.0%, as defined by the  
14 Department. This increase terminates on July 1, 2002; beginning  
15 July 1, 2002 these rates are reduced to the level of the rates  
16 in effect on March 31, 2002, as defined by the Department.

17           For facilities licensed by the Department of Public Health  
18 under the Nursing Home Care Act as skilled nursing facilities  
19 or intermediate care facilities, the rates taking effect on  
20 July 1, 2001 shall be computed using the most recent cost  
21 reports on file with the Department of Public Aid no later than  
22 April 1, 2000, updated for inflation to January 1, 2001. For  
23 rates effective July 1, 2001 only, rates shall be the greater  
24 of the rate computed for July 1, 2001 or the rate effective on  
25 June 30, 2001.

26           Notwithstanding any other provision of this Section, for

1 facilities licensed by the Department of Public Health under  
2 the Nursing Home Care Act as skilled nursing facilities or  
3 intermediate care facilities, the Illinois Department shall  
4 determine by rule the rates taking effect on July 1, 2002,  
5 which shall be 5.9% less than the rates in effect on June 30,  
6 2002.

7 Notwithstanding any other provision of this Section, for  
8 facilities licensed by the Department of Public Health under  
9 the Nursing Home Care Act as skilled nursing facilities or  
10 intermediate care facilities, if the payment methodologies  
11 required under Section 5A-12 and the waiver granted under 42  
12 CFR 433.68 are approved by the United States Centers for  
13 Medicare and Medicaid Services, the rates taking effect on July  
14 1, 2004 shall be 3.0% greater than the rates in effect on June  
15 30, 2004. These rates shall take effect only upon approval and  
16 implementation of the payment methodologies required under  
17 Section 5A-12.

18 Notwithstanding any other provisions of this Section, for  
19 facilities licensed by the Department of Public Health under  
20 the Nursing Home Care Act as skilled nursing facilities or  
21 intermediate care facilities, the rates taking effect on  
22 January 1, 2005 shall be 3% more than the rates in effect on  
23 December 31, 2004.

24 Notwithstanding any other provision of this Section, for  
25 facilities licensed by the Department of Public Health under  
26 the Nursing Home Care Act as skilled nursing facilities or

1 intermediate care facilities, effective January 1, 2009, the  
2 per diem support component of the rates effective on January 1,  
3 2008, computed using the most recent cost reports on file with  
4 the Department of Healthcare and Family Services no later than  
5 April 1, 2005, updated for inflation to January 1, 2006, shall  
6 be increased to the amount that would have been derived using  
7 standard Department of Healthcare and Family Services methods,  
8 procedures, and inflators.

9 Notwithstanding any other provisions of this Section, for  
10 facilities licensed by the Department of Public Health under  
11 the Nursing Home Care Act as intermediate care facilities that  
12 are federally defined as Institutions for Mental Disease, a  
13 socio-development component rate equal to 6.6% of the  
14 facility's nursing component rate as of January 1, 2006 shall  
15 be established and paid effective July 1, 2006. The  
16 socio-development component of the rate shall be increased by a  
17 factor of 2.53 on the first day of the month that begins at  
18 least 45 days after January 11, 2008 (the effective date of  
19 Public Act 95-707). As of August 1, 2008, the socio-development  
20 component rate shall be equal to 6.6% of the facility's nursing  
21 component rate as of January 1, 2006, multiplied by a factor of  
22 3.53. The Illinois Department may by rule adjust these  
23 socio-development component rates, but in no case may such  
24 rates be diminished.

25 For facilities licensed by the Department of Public Health  
26 under the Nursing Home Care Act as Intermediate Care for the

1 Developmentally Disabled facilities or as long-term care  
2 facilities for residents under 22 years of age, the rates  
3 taking effect on July 1, 2003 shall include a statewide  
4 increase of 4%, as defined by the Department.

5 For facilities licensed by the Department of Public Health  
6 under the Nursing Home Care Act as Intermediate Care for the  
7 Developmentally Disabled facilities or Long Term Care for Under  
8 Age 22 facilities, the rates taking effect on the first day of  
9 the month that begins at least 45 days after the effective date  
10 of this amendatory Act of the 95th General Assembly shall  
11 include a statewide increase of 2.5%, as defined by the  
12 Department.

13 Notwithstanding any other provision of this Section, for  
14 facilities licensed by the Department of Public Health under  
15 the Nursing Home Care Act as skilled nursing facilities or  
16 intermediate care facilities, effective January 1, 2005,  
17 facility rates shall be increased by the difference between (i)  
18 a facility's per diem property, liability, and malpractice  
19 insurance costs as reported in the cost report filed with the  
20 Department of Public Aid and used to establish rates effective  
21 July 1, 2001 and (ii) those same costs as reported in the  
22 facility's 2002 cost report. These costs shall be passed  
23 through to the facility without caps or limitations, except for  
24 adjustments required under normal auditing procedures.

25 Rates established effective each July 1 shall govern  
26 payment for services rendered throughout that fiscal year,

1     except that rates established on July 1, 1996 shall be  
2     increased by 6.8% for services provided on or after January 1,  
3     1997. Such rates will be based upon the rates calculated for  
4     the year beginning July 1, 1990, and for subsequent years  
5     thereafter until June 30, 2001 shall be based on the facility  
6     cost reports for the facility fiscal year ending at any point  
7     in time during the previous calendar year, updated to the  
8     midpoint of the rate year. The cost report shall be on file  
9     with the Department no later than April 1 of the current rate  
10    year. Should the cost report not be on file by April 1, the  
11    Department shall base the rate on the latest cost report filed  
12    by each skilled care facility and intermediate care facility,  
13    updated to the midpoint of the current rate year. In  
14    determining rates for services rendered on and after July 1,  
15    1985, fixed time shall not be computed at less than zero. The  
16    Department shall not make any alterations of regulations which  
17    would reduce any component of the Medicaid rate to a level  
18    below what that component would have been utilizing in the rate  
19    effective on July 1, 1984.

20       (2) Shall take into account the actual costs incurred by  
21    facilities in providing services for recipients of skilled  
22    nursing and intermediate care services under the medical  
23    assistance program.

24       (3) Shall take into account the medical and psycho-social  
25    characteristics and needs of the patients.

26       (4) Shall take into account the actual costs incurred by

1 facilities in meeting licensing and certification standards  
2 imposed and prescribed by the State of Illinois, any of its  
3 political subdivisions or municipalities and by the U.S.  
4 Department of Health and Human Services pursuant to Title XIX  
5 of the Social Security Act.

6 The Department of Healthcare and Family Services shall  
7 develop precise standards for payments to reimburse nursing  
8 facilities for any utilization of appropriate rehabilitative  
9 personnel for the provision of rehabilitative services which is  
10 authorized by federal regulations, including reimbursement for  
11 services provided by qualified therapists or qualified  
12 assistants, and which is in accordance with accepted  
13 professional practices. Reimbursement also may be made for  
14 utilization of other supportive personnel under appropriate  
15 supervision.

16 (Source: P.A. 94-48, eff. 7-1-05; 94-85, eff. 6-28-05; 94-697,  
17 eff. 11-21-05; 94-838, eff. 6-6-06; 94-964, eff. 6-28-06;  
18 95-12, eff. 7-2-07; 95-331, eff. 8-21-07; 95-707, eff. 1-11-08;  
19 95-744, eff. 7-18-08.)

20 (305 ILCS 5/5-5.7) (from Ch. 23, par. 5-5.7)

21 Sec. 5-5.7. Cost Reports - Audits. The Department of  
22 Healthcare and Family Services shall work with the Department  
23 of Public Health to use cost report information currently being  
24 collected under provisions of the "Nursing Home Care Act and  
25 the MR/DD Community Care Act", ~~approved August 23, 1979, as~~

1 ~~amended~~. The Department of Healthcare and Family Services may,  
2 in conjunction with the Department of Public Health, develop in  
3 accordance with generally accepted accounting principles a  
4 uniform chart of accounts which each facility providing  
5 services under the medical assistance program shall adopt,  
6 after a reasonable period.

7 Nursing homes licensed under the Nursing Home Care Act or  
8 the MR/DD Community Care Act and providers of adult  
9 developmental training services certified by the Department of  
10 Human Services pursuant to Section 15.2 of the Mental Health  
11 and Developmental Disabilities Administrative Act which  
12 provide services to clients eligible for medical assistance  
13 under this Article are responsible for submitting the required  
14 annual cost report to the Department of Healthcare and Family  
15 Services.

16 The Department of Healthcare and Family Services shall  
17 audit the financial and statistical records of each provider  
18 participating in the medical assistance program as a skilled  
19 nursing or intermediate care facility over a 3 year period,  
20 beginning with the close of the first cost reporting year.  
21 Following the end of this 3-year term, audits of the financial  
22 and statistical records will be performed each year in at least  
23 20% of the facilities participating in the medical assistance  
24 program with at least 10% being selected on a random sample  
25 basis, and the remainder selected on the basis of exceptional  
26 profiles. All audits shall be conducted in accordance with

1 generally accepted auditing standards.

2 The Department of Healthcare and Family Services shall  
3 establish prospective payment rates for categories of service  
4 needed within the skilled nursing and intermediate care levels  
5 of services, in order to more appropriately recognize the  
6 individual needs of patients in nursing facilities.

7 The Department of Healthcare and Family Services shall  
8 provide, during the process of establishing the payment rate  
9 for skilled nursing and intermediate care services, or when a  
10 substantial change in rates is proposed, an opportunity for  
11 public review and comment on the proposed rates prior to their  
12 becoming effective.

13 (Source: P.A. 95-331, eff. 8-21-07.)

14 (305 ILCS 5/5-6) (from Ch. 23, par. 5-6)

15 Sec. 5-6. Obligations incurred prior to death of a  
16 recipient. Obligations incurred but not paid for at the time of  
17 a recipient's death for services authorized under Section 5-5,  
18 including medical and other care in group care facilities as  
19 defined in the "Nursing Home Care Act or the MR/DD Community  
20 Care Act", ~~approved August 23, 1979, as amended~~, or in like  
21 facilities not required to be licensed under that Act, may be  
22 paid, subject to the rules and regulations of the Illinois  
23 Department, after the death of the recipient.

24 (Source: P.A. 86-820.)

1 (305 ILCS 5/5B-1) (from Ch. 23, par. 5B-1)

2 Sec. 5B-1. Definitions. As used in this Article, unless the  
3 context requires otherwise:

4 "Fund" means the Long-Term Care Provider Fund.

5 "Long-term care facility" means (i) a skilled nursing or  
6 intermediate long term care facility, whether public or private  
7 and whether organized for profit or not-for-profit, that is  
8 subject to licensure by the Illinois Department of Public  
9 Health under the Nursing Home Care Act or the MR/DD Community  
10 Care Act, including a county nursing home directed and  
11 maintained under Section 5-1005 of the Counties Code, and (ii)  
12 a part of a hospital in which skilled or intermediate long-term  
13 care services within the meaning of Title XVIII or XIX of the  
14 Social Security Act are provided; except that the term  
15 "long-term care facility" does not include a facility operated  
16 solely as an intermediate care facility for the mentally  
17 retarded within the meaning of Title XIX of the Social Security  
18 Act.

19 "Long-term care provider" means (i) a person licensed by  
20 the Department of Public Health to operate and maintain a  
21 skilled nursing or intermediate long-term care facility or (ii)  
22 a hospital provider that provides skilled or intermediate  
23 long-term care services within the meaning of Title XVIII or  
24 XIX of the Social Security Act. For purposes of this paragraph,  
25 "person" means any political subdivision of the State,  
26 municipal corporation, individual, firm, partnership,

1 corporation, company, limited liability company, association,  
2 joint stock association, or trust, or a receiver, executor,  
3 trustee, guardian, or other representative appointed by order  
4 of any court. "Hospital provider" means a person licensed by  
5 the Department of Public Health to conduct, operate, or  
6 maintain a hospital.

7 "Occupied bed days" shall be computed separately for each  
8 long-term care facility operated or maintained by a long-term  
9 care provider, and means the sum for all beds of the number of  
10 days during the year on which each bed is occupied by a  
11 resident (other than a resident receiving care at an  
12 intermediate care facility for the mentally retarded within the  
13 meaning of Title XIX of the Social Security Act).

14 "Intergovernmental transfer payment" means the payments  
15 established under Section 15-3 of this Code, and includes  
16 without limitation payments payable under that Section for  
17 July, August, and September of 1992.

18 (Source: P.A. 87-861.)

19 (305 ILCS 5/5B-8) (from Ch. 23, par. 5B-8)

20 Sec. 5B-8. Long-Term Care Provider Fund.

21 (a) There is created in the State Treasury the Long-Term  
22 Care Provider Fund. Interest earned by the Fund shall be  
23 credited to the Fund. The Fund shall not be used to replace any  
24 moneys appropriated to the Medicaid program by the General  
25 Assembly.

1 (b) The Fund is created for the purpose of receiving and  
2 disbursing moneys in accordance with this Article.  
3 Disbursements from the Fund shall be made only as follows:

4 (1) For payments to skilled or intermediate nursing  
5 facilities, including county nursing facilities but  
6 excluding State-operated facilities, under Title XIX of  
7 the Social Security Act and Article V of this Code.

8 (2) For the reimbursement of moneys collected by the  
9 Illinois Department through error or mistake, and for  
10 making required payments under Section 5-4.38(a)(1) if  
11 there are no moneys available for such payments in the  
12 Medicaid Long Term Care Provider Participation Fee Trust  
13 Fund.

14 (3) For payment of administrative expenses incurred by  
15 the Illinois Department or its agent in performing the  
16 activities authorized by this Article.

17 (3.5) For reimbursement of expenses incurred by  
18 long-term care facilities, and payment of administrative  
19 expenses incurred by the Department of Public Health, in  
20 relation to the conduct and analysis of background checks  
21 for identified offenders under the Nursing Home Care Act or  
22 the MR/DD Community Care Act.

23 (4) For payments of any amounts that are reimbursable  
24 to the federal government for payments from this Fund that  
25 are required to be paid by State warrant.

26 (5) For making transfers to the General Obligation Bond

1 Retirement and Interest Fund, as those transfers are  
2 authorized in the proceedings authorizing debt under the  
3 Short Term Borrowing Act, but transfers made under this  
4 paragraph (5) shall not exceed the principal amount of debt  
5 issued in anticipation of the receipt by the State of  
6 moneys to be deposited into the Fund.

7 Disbursements from the Fund, other than transfers to the  
8 General Obligation Bond Retirement and Interest Fund, shall be  
9 by warrants drawn by the State Comptroller upon receipt of  
10 vouchers duly executed and certified by the Illinois  
11 Department.

12 (c) The Fund shall consist of the following:

13 (1) All moneys collected or received by the Illinois  
14 Department from the long-term care provider assessment  
15 imposed by this Article.

16 (2) All federal matching funds received by the Illinois  
17 Department as a result of expenditures made by the Illinois  
18 Department that are attributable to moneys deposited in the  
19 Fund.

20 (3) Any interest or penalty levied in conjunction with  
21 the administration of this Article.

22 (4) Any balance in the Medicaid Long Term Care Provider  
23 Participation Fee Fund in the State Treasury. The balance  
24 shall be transferred to the Fund upon certification by the  
25 Illinois Department to the State Comptroller that all of  
26 the disbursements required by Section 5-4.31(b) of this

1 Code have been made.

2 (5) All other monies received for the Fund from any  
3 other source, including interest earned thereon.

4 (Source: P.A. 95-707, eff. 1-11-08.)

5 (305 ILCS 5/5E-5)

6 Sec. 5E-5. Definitions. As used in this Article, unless the  
7 context requires otherwise:

8 "Nursing home" means (i) a skilled nursing or intermediate  
9 long-term care facility, whether public or private and whether  
10 organized for profit or not-for-profit, that is subject to  
11 licensure by the Illinois Department of Public Health under the  
12 Nursing Home Care Act or the MR/DD Community Care Act,  
13 including a county nursing home directed and maintained under  
14 Section 5-1005 of the Counties Code, and (ii) a part of a  
15 hospital in which skilled or intermediate long-term care  
16 services within the meaning of Title XVIII or XIX of the Social  
17 Security Act are provided; except that the term "nursing home"  
18 does not include a facility operated solely as an intermediate  
19 care facility for the mentally retarded within the meaning of  
20 Title XIX of the Social Security Act.

21 "Nursing home provider" means (i) a person licensed by the  
22 Department of Public Health to operate and maintain a skilled  
23 nursing or intermediate long-term care facility which charges  
24 its residents, a third party payor, Medicaid, or Medicare for  
25 skilled nursing or intermediate long-term care services, or

1 (ii) a hospital provider that provides skilled or intermediate  
2 long-term care services within the meaning of Title XVIII or  
3 XIX of the Social Security Act. For purposes of this paragraph,  
4 "person" means any political subdivision of the State,  
5 municipal corporation, individual, firm, partnership,  
6 corporation, company, limited liability company, association,  
7 joint stock association, or trust, or a receiver, executor,  
8 trustee, guardian, or other representative appointed by order  
9 of any court. "Hospital provider" means a person licensed by  
10 the Department of Public Health to conduct, operate, or  
11 maintain a hospital.

12 "Licensed bed days" shall be computed separately for each  
13 nursing home operated or maintained by a nursing home provider  
14 and means, with respect to a nursing home provider, the sum for  
15 all nursing home beds of the number of days during a calendar  
16 quarter on which each bed is covered by a license issued to  
17 that provider under the Nursing Home Care Act or the Hospital  
18 Licensing Act.

19 (Source: P.A. 88-88.)

20 (305 ILCS 5/8A-11) (from Ch. 23, par. 8A-11)

21 Sec. 8A-11. (a) No person shall:

22 (1) Knowingly charge a resident of a nursing home for any  
23 services provided pursuant to Article V of the Illinois Public  
24 Aid Code, money or other consideration at a rate in excess of  
25 the rates established for covered services by the Illinois

1 Department pursuant to Article V of The Illinois Public Aid  
2 Code; or

3 (2) Knowingly charge, solicit, accept or receive, in  
4 addition to any amount otherwise authorized or required to be  
5 paid pursuant to Article V of The Illinois Public Aid Code, any  
6 gift, money, donation or other consideration:

7 (i) As a precondition to admitting or expediting the  
8 admission of a recipient or applicant, pursuant to Article V of  
9 The Illinois Public Aid Code, to a long-term care facility as  
10 defined in Section 1-113 of the Nursing Home Care Act or a  
11 facility as defined in Section 1-113 of the MR/DD Community  
12 Care Act; and

13 (ii) As a requirement for the recipient's or applicant's  
14 continued stay in such facility when the cost of the services  
15 provided therein to the recipient is paid for, in whole or in  
16 part, pursuant to Article V of The Illinois Public Aid Code.

17 (b) Nothing herein shall prohibit a person from making a  
18 voluntary contribution, gift or donation to a long-term care  
19 facility.

20 (c) This paragraph shall not apply to agreements to provide  
21 continuing care or life care between a life care facility as  
22 defined by the Life Care Facilities Act, and a person  
23 financially eligible for benefits pursuant to Article V of The  
24 Illinois Public Aid Code.

25 (d) Any person who violates this Section shall be guilty of  
26 a business offense and fined not less than \$5,000 nor more than

1 \$25,000.

2 (e) "Person", as used in this Section, means an individual,  
3 corporation, partnership, or unincorporated association.

4 (f) The State's Attorney of the county in which the  
5 facility is located and the Attorney General shall be notified  
6 by the Illinois Department of any alleged violations of this  
7 Section known to the Department.

8 (g) The Illinois Department shall adopt rules and  
9 regulations to carry out the provisions of this Section.

10 (Source: P.A. 86-820.)

11 Section 90-155. The Nursing Home Grant Assistance Act is  
12 amended by changing Section 5 as follows:

13 (305 ILCS 40/5) (from Ch. 23, par. 7100-5)

14 Sec. 5. Definitions. As used in this Act, unless the  
15 context requires otherwise:

16 "Applicant" means an eligible individual who makes a  
17 payment of at least \$1 in a quarter to a nursing home.

18 "Application" means the receipt by a nursing home of at  
19 least \$1 from an eligible individual that is a resident of the  
20 home.

21 "Department" means the Department of Revenue.

22 "Director" means the Director of the Department of Revenue.

23 "Distribution agent" means a nursing home that is residence  
24 to one or more eligible individuals, which receives an

1 application from one or more applicants for participation in  
2 the Nursing Home Grant Assistance Program provided for by this  
3 Act, and is thereby designated as distributing agent by such  
4 applicant or applicants, and which is thereby authorized by  
5 virtue of its license to receive from the Department and  
6 distribute to eligible individuals residing in the nursing home  
7 Nursing Home Grant Assistance payments under this Act.

8 "Qualified distribution agent" means a distribution agent  
9 that the Department of Public Health has certified to the  
10 Department of Revenue to be a licensed nursing home in good  
11 standing.

12 "Eligible individual" means an individual eligible for a  
13 nursing home grant assistance payment because he or she meets  
14 each of the following requirements:

15 (1) The individual resides, after June 30, 1992, in a  
16 nursing home as defined in this Act.

17 (2) For each day for which nursing home grant  
18 assistance is sought, the individual's nursing home care  
19 was not paid for, in whole or in part, by a federal, State,  
20 or combined federal-State medical care program; the  
21 receipt of Medicare Part B benefits does not make a person  
22 ineligible for nursing home grant assistance.

23 (3) The individual's annual adjusted gross income,  
24 after payment of any expenses for nursing home care, does  
25 not exceed 250% of the federal poverty guidelines for an  
26 individual as published annually by the U.S. Department of

1 Health and Human Services for purposes of determining  
2 Medicaid eligibility.

3 "Fund" means the Nursing Home Grant Assistance Fund.

4 "Nursing home" means a skilled nursing or intermediate long  
5 term care facility that is subject to licensure by the Illinois  
6 Department of Public Health under the Nursing Home Care Act or  
7 the MR/DD Community Care Act.

8 "Occupied bed days" means the sum for all beds of the  
9 number of days during a quarter for which grant assistance is  
10 sought under this Act on which a bed is occupied by an  
11 individual.

12 (Source: P.A. 87-863.)

13 Section 90-160. The Mental Health and Developmental  
14 Disabilities Code is amended by changing Section 2-107 as  
15 follows:

16 (405 ILCS 5/2-107) (from Ch. 91 1/2, par. 2-107)

17 Sec. 2-107. Refusal of services; informing of risks.

18 (a) An adult recipient of services or the recipient's  
19 guardian, if the recipient is under guardianship, and the  
20 recipient's substitute decision maker, if any, must be informed  
21 of the recipient's right to refuse medication or  
22 electroconvulsive therapy. The recipient and the recipient's  
23 guardian or substitute decision maker shall be given the  
24 opportunity to refuse generally accepted mental health or

1 developmental disability services, including but not limited  
2 to medication or electroconvulsive therapy. If such services  
3 are refused, they shall not be given unless such services are  
4 necessary to prevent the recipient from causing serious and  
5 imminent physical harm to the recipient or others and no less  
6 restrictive alternative is available. The facility director  
7 shall inform a recipient, guardian, or substitute decision  
8 maker, if any, who refuses such services of alternate services  
9 available and the risks of such alternate services, as well as  
10 the possible consequences to the recipient of refusal of such  
11 services.

12 (b) Psychotropic medication or electroconvulsive therapy  
13 may be administered under this Section for up to 24 hours only  
14 if the circumstances leading up to the need for emergency  
15 treatment are set forth in writing in the recipient's record.

16 (c) Administration of medication or electroconvulsive  
17 therapy may not be continued unless the need for such treatment  
18 is redetermined at least every 24 hours based upon a personal  
19 examination of the recipient by a physician or a nurse under  
20 the supervision of a physician and the circumstances  
21 demonstrating that need are set forth in writing in the  
22 recipient's record.

23 (d) Neither psychotropic medication nor electroconvulsive  
24 therapy may be administered under this Section for a period in  
25 excess of 72 hours, excluding Saturdays, Sundays, and holidays,  
26 unless a petition is filed under Section 2-107.1 and the

1 treatment continues to be necessary under subsection (a) of  
2 this Section. Once the petition has been filed, treatment may  
3 continue in compliance with subsections (a), (b), and (c) of  
4 this Section until the final outcome of the hearing on the  
5 petition.

6 (e) The Department shall issue rules designed to insure  
7 that in State-operated mental health facilities psychotropic  
8 medication and electroconvulsive therapy are administered in  
9 accordance with this Section and only when appropriately  
10 authorized and monitored by a physician or a nurse under the  
11 supervision of a physician in accordance with accepted medical  
12 practice. The facility director of each mental health facility  
13 not operated by the State shall issue rules designed to insure  
14 that in that facility psychotropic medication and  
15 electroconvulsive therapy are administered in accordance with  
16 this Section and only when appropriately authorized and  
17 monitored by a physician or a nurse under the supervision of a  
18 physician in accordance with accepted medical practice. Such  
19 rules shall be available for public inspection and copying  
20 during normal business hours.

21 (f) The provisions of this Section with respect to the  
22 emergency administration of psychotropic medication and  
23 electroconvulsive therapy do not apply to facilities licensed  
24 under the Nursing Home Care Act or the MR/DD Community Care  
25 Act.

26 (g) Under no circumstances may long-acting psychotropic

1 medications be administered under this Section.

2 (h) Whenever psychotropic medication or electroconvulsive  
3 therapy is refused pursuant to subsection (a) of this Section  
4 at least once that day, the physician shall determine and state  
5 in writing the reasons why the recipient did not meet the  
6 criteria for administration of medication or electroconvulsive  
7 therapy under subsection (a) and whether the recipient meets  
8 the standard for administration of psychotropic medication or  
9 electroconvulsive therapy under Section 2-107.1 of this Code.  
10 If the physician determines that the recipient meets the  
11 standard for administration of psychotropic medication or  
12 electroconvulsive therapy under Section 2-107.1, the facility  
13 director or his or her designee shall petition the court for  
14 administration of psychotropic medication or electroconvulsive  
15 therapy pursuant to that Section unless the facility director  
16 or his or her designee states in writing in the recipient's  
17 record why the filing of such a petition is not warranted. This  
18 subsection (h) applies only to State-operated mental health  
19 facilities.

20 (i) The Department shall conduct annual trainings for all  
21 physicians and registered nurses working in State-operated  
22 mental health facilities on the appropriate use of emergency  
23 administration of psychotropic medication and  
24 electroconvulsive therapy, standards for their use, and the  
25 methods of authorization under this Section.

26 (Source: P.A. 94-1066, eff. 8-1-06; 95-172, eff. 8-14-07.)

1           Section 90-165. The Protection and Advocacy for  
2           Developmentally Disabled Persons Act is amended by changing  
3           Section 1 as follows:

4           (405 ILCS 40/1) (from Ch. 91 1/2, par. 1151)

5           Sec. 1. The Governor may designate a private not-for-profit  
6           corporation as the agency to administer a State plan to protect  
7           and advocate the rights of persons with developmental  
8           disabilities pursuant to the requirements of the federal  
9           Developmental Disabilities Assistance and Bill of Rights Act,  
10          42 U.S.C. 6001 to 6081, as now or hereafter amended. The  
11          designated agency may pursue legal, administrative, and other  
12          appropriate remedies to ensure the protection of the rights of  
13          such persons who are receiving treatment, services or  
14          habilitation within this State. The agency designated by the  
15          Governor shall be independent of any agency which provides  
16          treatment, services, guardianship, or habilitation to persons  
17          with developmental disabilities, and such agency shall not be  
18          administered by the Governor's Planning Council on  
19          Developmental Disabilities or any successor State Planning  
20          Council organized pursuant to federal law.

21          The designated agency may receive and expend funds to  
22          protect and advocate the rights of persons with developmental  
23          disabilities. In order to properly exercise its powers and  
24          duties, such agency shall have access to developmental

1 disability facilities and mental health facilities, as defined  
2 under Sections 1-107 and 1-114 of the Mental Health and  
3 Developmental Disabilities Code, and facilities as defined in  
4 Section 1-113 of the Nursing Home Care Act or Section 1-113 of  
5 the MR/DD Community Care Act. Such access shall be granted for  
6 the purposes of meeting with residents and staff, informing  
7 them of services available from the agency, distributing  
8 written information about the agency and the rights of persons  
9 with developmental disabilities, conducting scheduled and  
10 unscheduled visits, and performing other activities designed  
11 to protect the rights of persons with developmental  
12 disabilities. The agency also shall have access, for the  
13 purpose of inspection and copying, to the records of a person  
14 with developmental disabilities who resides in any such  
15 facility subject to the limitations of this Act, the Mental  
16 Health and Developmental Disabilities Confidentiality Act, ~~and~~  
17 the Nursing Home Care Act, and the MR/DD Community Care Act.  
18 The agency also shall have access, for the purpose of  
19 inspection and copying, to the records of a person with  
20 developmental disabilities who resides in any such facility if  
21 (1) a complaint is received by the agency from or on behalf of  
22 the person with a developmental disability, and (2) such person  
23 does not have a legal guardian or the State or the designee of  
24 the State is the legal guardian of such person. The designated  
25 agency shall provide written notice to the person with  
26 developmental disabilities and the State guardian of the nature

1 of the complaint based upon which the designated agency has  
2 gained access to the records. No record or the contents of any  
3 record shall be redisclosed by the designated agency unless the  
4 person with developmental disabilities and the State guardian  
5 are provided 7 days advance written notice, except in emergency  
6 situations, of the designated agency's intent to redisclose  
7 such record, during which time the person with developmental  
8 disabilities or the State guardian may seek to judicially  
9 enjoin the designated agency's redisclosure of such record on  
10 the grounds that such redisclosure is contrary to the interests  
11 of the person with developmental disabilities. Any person who  
12 in good faith complains to the designated agency on behalf of a  
13 person with developmental disabilities, or provides  
14 information or participates in the investigation of any such  
15 complaint shall have immunity from any liability, civil,  
16 criminal or otherwise, and shall not be subject to any  
17 penalties, sanctions, restrictions or retaliation as a  
18 consequence of making such complaint, providing such  
19 information or participating in such investigation.

20 Upon request, the designated agency shall be entitled to  
21 inspect and copy any records or other materials which may  
22 further the agency's investigation of problems affecting  
23 numbers of persons with developmental disabilities. When  
24 required by law any personally identifiable information of  
25 persons with developmental disabilities shall be removed from  
26 the records. However, the designated agency may not inspect or

1 copy any records or other materials when the removal of  
2 personally identifiable information imposes an unreasonable  
3 burden on mental health and developmental disabilities  
4 facilities pursuant to the Mental Health and Developmental  
5 Disabilities Code or facilities as defined in the Nursing Home  
6 Care Act or the MR/DD Community Care Act.

7 The Governor shall not redesignate the agency to administer  
8 the State plan to protect and advocate the rights of persons  
9 with developmental disabilities unless there is good cause for  
10 the redesignation and unless notice of the intent to make such  
11 redesignation is given to persons with developmental  
12 disabilities or their representatives, the federal Secretary  
13 of Health and Human Services, and the General Assembly at least  
14 60 days prior thereto.

15 As used in this Act, the term "developmental disability"  
16 means a severe, chronic disability of a person which:

17 (A) is attributable to a mental or physical impairment  
18 or combination of mental and physical impairments;

19 (B) is manifested before the person attains age 22;

20 (C) is likely to continue indefinitely;

21 (D) results in substantial functional limitations in 3  
22 or more of the following areas of major life activity: (i)  
23 self-care, (ii) receptive and expressive language, (iii)  
24 learning, (iv) mobility, (v) self-direction, (vi) capacity  
25 for independent living, and (vii) economic  
26 self-sufficiency; and

1 (E) reflects the person's need for combination and  
2 sequence of special, interdisciplinary or generic care,  
3 treatment or other services which are of lifelong or  
4 extended duration and are individually planned and  
5 coordinated.

6 (Source: P.A. 88-380.)

7 Section 90-170. The Developmental Disability and Mental  
8 Disability Services Act is amended by changing Sections 2-3 and  
9 5-1 as follows:

10 (405 ILCS 80/2-3) (from Ch. 91 1/2, par. 1802-3)

11 Sec. 2-3. As used in this Article, unless the context  
12 requires otherwise:

13 (a) "Agency" means an agency or entity licensed by the  
14 Department pursuant to this Article or pursuant to the  
15 Community Residential Alternatives Licensing Act.

16 (b) "Department" means the Department of Human Services, as  
17 successor to the Department of Mental Health and Developmental  
18 Disabilities.

19 (c) "Home-based services" means services provided to a  
20 mentally disabled adult who lives in his or her own home. These  
21 services include but are not limited to:

22 (1) home health services;

23 (2) case management;

24 (3) crisis management;

- 1 (4) training and assistance in self-care;
- 2 (5) personal care services;
- 3 (6) habilitation and rehabilitation services;
- 4 (7) employment-related services;
- 5 (8) respite care; and
- 6 (9) other skill training that enables a person to
- 7 become self-supporting.

8 (d) "Legal guardian" means a person appointed by a court of  
9 competent jurisdiction to exercise certain powers on behalf of  
10 a mentally disabled adult.

11 (e) "Mentally disabled adult" means a person over the age  
12 of 18 years who lives in his or her own home; who needs  
13 home-based services, but does not require 24-hour-a-day  
14 supervision; and who has one of the following conditions:  
15 severe autism, severe mental illness, severe or profound mental  
16 retardation, or severe and multiple impairments.

17 (f) In one's "own home" means that a mentally disabled  
18 adult lives alone; or that a mentally disabled adult is in  
19 full-time residence with his or her parents, legal guardian, or  
20 other relatives; or that a mentally disabled adult is in  
21 full-time residence in a setting not subject to licensure under  
22 the Nursing Home Care Act, the MR/DD Community Care Act, or the  
23 Child Care Act of 1969, as now or hereafter amended, with 3 or  
24 fewer other adults unrelated to the mentally disabled adult who  
25 do not provide home-based services to the mentally disabled  
26 adult.

1 (g) "Parent" means the biological or adoptive parent of a  
2 mentally disabled adult, or a person licensed as a foster  
3 parent under the laws of this State who acts as a mentally  
4 disabled adult's foster parent.

5 (h) "Relative" means any of the following relationships by  
6 blood, marriage or adoption: parent, son, daughter, brother,  
7 sister, grandparent, uncle, aunt, nephew, niece, great  
8 grandparent, great uncle, great aunt, stepbrother, stepsister,  
9 stepson, stepdaughter, stepparent or first cousin.

10 (i) "Severe autism" means a lifelong developmental  
11 disability which is typically manifested before 30 months of  
12 age and is characterized by severe disturbances in reciprocal  
13 social interactions; verbal and nonverbal communication and  
14 imaginative activity; and repertoire of activities and  
15 interests. A person shall be determined severely autistic, for  
16 purposes of this Article, if both of the following are present:

17 (1) Diagnosis consistent with the criteria for  
18 autistic disorder in the current edition of the Diagnostic  
19 and Statistical Manual of Mental Disorders.

20 (2) Severe disturbances in reciprocal social  
21 interactions; verbal and nonverbal communication and  
22 imaginative activity; repertoire of activities and  
23 interests. A determination of severe autism shall be based  
24 upon a comprehensive, documented assessment with an  
25 evaluation by a licensed clinical psychologist or  
26 psychiatrist. A determination of severe autism shall not be

1 based solely on behaviors relating to environmental,  
2 cultural or economic differences.

3 (j) "Severe mental illness" means the manifestation of all  
4 of the following characteristics:

5 (1) A primary diagnosis of one of the major mental  
6 disorders in the current edition of the Diagnostic and  
7 Statistical Manual of Mental Disorders listed below:

8 (A) Schizophrenia disorder.

9 (B) Delusional disorder.

10 (C) Schizo-affective disorder.

11 (D) Bipolar affective disorder.

12 (E) Atypical psychosis.

13 (F) Major depression, recurrent.

14 (2) The individual's mental illness must substantially  
15 impair his or her functioning in at least 2 of the  
16 following areas:

17 (A) Self-maintenance.

18 (B) Social functioning.

19 (C) Activities of community living.

20 (D) Work skills.

21 (3) Disability must be present or expected to be  
22 present for at least one year.

23 A determination of severe mental illness shall be based  
24 upon a comprehensive, documented assessment with an evaluation  
25 by a licensed clinical psychologist or psychiatrist, and shall  
26 not be based solely on behaviors relating to environmental,

1 cultural or economic differences.

2 (k) "Severe or profound mental retardation" means a  
3 manifestation of all of the following characteristics:

4 (1) A diagnosis which meets Classification in Mental  
5 Retardation or criteria in the current edition of the  
6 Diagnostic and Statistical Manual of Mental Disorders for  
7 severe or profound mental retardation (an IQ of 40 or  
8 below). This must be measured by a standardized instrument  
9 for general intellectual functioning.

10 (2) A severe or profound level of disturbed adaptive  
11 behavior. This must be measured by a standardized adaptive  
12 behavior scale or informal appraisal by the professional in  
13 keeping with illustrations in Classification in Mental  
14 Retardation, 1983.

15 (3) Disability diagnosed before age of 18.

16 A determination of severe or profound mental retardation  
17 shall be based upon a comprehensive, documented assessment with  
18 an evaluation by a licensed clinical psychologist or certified  
19 school psychologist or a psychiatrist, and shall not be based  
20 solely on behaviors relating to environmental, cultural or  
21 economic differences.

22 (l) "Severe and multiple impairments" means the  
23 manifestation of all of the following characteristics:

24 (1) The evaluation determines the presence of a  
25 developmental disability which is expected to continue  
26 indefinitely, constitutes a substantial handicap and is

1           attributable to any of the following:

2                   (A) Mental retardation, which is defined as  
3           general intellectual functioning that is 2 or more  
4           standard deviations below the mean concurrent with  
5           impairment of adaptive behavior which is 2 or more  
6           standard deviations below the mean. Assessment of the  
7           individual's intellectual functioning must be measured  
8           by a standardized instrument for general intellectual  
9           functioning.

10                   (B) Cerebral palsy.

11                   (C) Epilepsy.

12                   (D) Autism.

13                   (E) Any other condition which results in  
14           impairment similar to that caused by mental  
15           retardation and which requires services similar to  
16           those required by mentally retarded persons.

17           (2) The evaluation determines multiple handicaps in  
18           physical, sensory, behavioral or cognitive functioning  
19           which constitute a severe or profound impairment  
20           attributable to one or more of the following:

21                   (A) Physical functioning, which severely impairs  
22           the individual's motor performance that may be due to:

23                           (i) Neurological, psychological or physical  
24                           involvement resulting in a variety of disabling  
25                           conditions such as hemiplegia, quadriplegia or  
26                           ataxia,

1           (ii) Severe organ systems involvement such as  
2 congenital heart defect,

3           (iii) Physical abnormalities resulting in the  
4 individual being non-mobile and non-ambulatory or  
5 confined to bed and receiving assistance in  
6 transferring, or

7           (iv) The need for regular medical or nursing  
8 supervision such as gastrostomy care and feeding.

9           Assessment of physical functioning must be based  
10 on clinical medical assessment by a physician licensed  
11 to practice medicine in all its branches, using the  
12 appropriate instruments, techniques and standards of  
13 measurement required by the professional.

14           (B) Sensory, which involves severe restriction due  
15 to hearing or visual impairment limiting the  
16 individual's movement and creating dependence in  
17 completing most daily activities. Hearing impairment  
18 is defined as a loss of 70 decibels aided or speech  
19 discrimination of less than 50% aided. Visual  
20 impairment is defined as 20/200 corrected in the better  
21 eye or a visual field of 20 degrees or less. Sensory  
22 functioning must be based on clinical medical  
23 assessment by a physician licensed to practice  
24 medicine in all its branches using the appropriate  
25 instruments, techniques and standards of measurement  
26 required by the professional.

1 (C) Behavioral, which involves behavior that is  
2 maladaptive and presents a danger to self or others, is  
3 destructive to property by deliberately breaking,  
4 destroying or defacing objects, is disruptive by  
5 fighting, or has other socially offensive behaviors in  
6 sufficient frequency or severity to seriously limit  
7 social integration. Assessment of behavioral  
8 functioning may be measured by a standardized scale or  
9 informal appraisal by a clinical psychologist or  
10 psychiatrist.

11 (D) Cognitive, which involves intellectual  
12 functioning at a measured IQ of 70 or below. Assessment  
13 of cognitive functioning must be measured by a  
14 standardized instrument for general intelligence.

15 (3) The evaluation determines that development is  
16 substantially less than expected for the age in cognitive,  
17 affective or psychomotor behavior as follows:

18 (A) Cognitive, which involves intellectual  
19 functioning at a measured IQ of 70 or below. Assessment  
20 of cognitive functioning must be measured by a  
21 standardized instrument for general intelligence.

22 (B) Affective behavior, which involves over and  
23 under responding to stimuli in the environment and may  
24 be observed in mood, attention to awareness, or in  
25 behaviors such as euphoria, anger or sadness that  
26 seriously limit integration into society. Affective

1 behavior must be based on clinical assessment using the  
2 appropriate instruments, techniques and standards of  
3 measurement required by the professional.

4 (C) Psychomotor, which includes a severe  
5 developmental delay in fine or gross motor skills so  
6 that development in self-care, social interaction,  
7 communication or physical activity will be greatly  
8 delayed or restricted.

9 (4) A determination that the disability originated  
10 before the age of 18 years.

11 A determination of severe and multiple impairments shall be  
12 based upon a comprehensive, documented assessment with an  
13 evaluation by a licensed clinical psychologist or  
14 psychiatrist.

15 If the examiner is a licensed clinical psychologist,  
16 ancillary evaluation of physical impairment, cerebral palsy or  
17 epilepsy must be made by a physician licensed to practice  
18 medicine in all its branches.

19 Regardless of the discipline of the examiner, ancillary  
20 evaluation of visual impairment must be made by an  
21 ophthalmologist or a licensed optometrist.

22 Regardless of the discipline of the examiner, ancillary  
23 evaluation of hearing impairment must be made by an  
24 otolaryngologist or an audiologist with a certificate of  
25 clinical competency.

26 The only exception to the above is in the case of a person

1 with cerebral palsy or epilepsy who, according to the  
2 eligibility criteria listed below, has multiple impairments  
3 which are only physical and sensory. In such a case, a  
4 physician licensed to practice medicine in all its branches may  
5 serve as the examiner.

6 (m) "Twenty-four-hour-a-day supervision" means  
7 24-hour-a-day care by a trained mental health or developmental  
8 disability professional on an ongoing basis.

9 (Source: P.A. 89-507, eff. 7-1-97.)

10 (405 ILCS 80/5-1) (from Ch. 91 1/2, par. 1805-1)

11 Sec. 5-1. As the mental health and developmental  
12 disabilities or mental retardation authority for the State of  
13 Illinois, the Department of Human Services shall have the  
14 authority to license, certify and prescribe standards  
15 governing the programs and services provided under this Act, as  
16 well as all other agencies or programs which provide home-based  
17 or community-based services to the mentally disabled, except  
18 those services, programs or agencies established under or  
19 otherwise subject to the Child Care Act of 1969, ~~or~~ the Nursing  
20 Home Care Act, or the MR/DD Community Care Act, as now or  
21 hereafter amended, and this Act shall not be construed to limit  
22 the application of those Acts.

23 (Source: P.A. 89-507, eff. 7-1-97.)

24 Section 90-175. The Facilities Requiring Smoke Detectors

1 Act is amended by changing Section 1 as follows:

2 (425 ILCS 10/1) (from Ch. 127 1/2, par. 821)

3 Sec. 1. For purposes of this Act, unless the context  
4 requires otherwise:

5 (a) "Facility" means:

6 (1) Any long-term care facility as defined in Section 1-113  
7 of the Nursing Home Care Act or any facility as defined in  
8 Section 1-113 of the MR/DD Community Care Act, as amended;

9 (2) Any community residential alternative as defined in  
10 paragraph (4) of Section 3 of the Community Residential  
11 Alternatives Licensing Act, as amended; and

12 (3) Any child care facility as defined in Section 2.05 of  
13 the Child Care Act of 1969, as amended.

14 (b) "Approved smoke detector" or "detector" means a smoke  
15 detector of the ionization or photoelectric type which complies  
16 with all the requirements of the rules and regulations of the  
17 Illinois State Fire Marshal.

18 (Source: P.A. 86-820.)

19 Section 90-180. The Criminal Code of 1961 is amended by  
20 changing Sections 12-19, 12-21, and 26-1 as follows:

21 (720 ILCS 5/12-19) (from Ch. 38, par. 12-19)

22 Sec. 12-19. Abuse and Criminal Neglect of a Long Term Care  
23 Facility Resident.

1           (a) Any person or any owner or licensee of a long term care  
2 facility who abuses a long term care facility resident is  
3 guilty of a Class 3 felony. Any person or any owner or licensee  
4 of a long term care facility who criminally neglects a long  
5 term care facility resident is guilty of a Class 4 felony. A  
6 person whose criminal neglect of a long term care facility  
7 resident results in the resident's death is guilty of a Class 3  
8 felony. However, nothing herein shall be deemed to apply to a  
9 physician licensed to practice medicine in all its branches or  
10 a duly licensed nurse providing care within the scope of his or  
11 her professional judgment and within the accepted standards of  
12 care within the community.

13           (b) Notwithstanding the penalties in subsections (a) and  
14 (c) and in addition thereto, if a licensee or owner of a long  
15 term care facility or his or her employee has caused neglect of  
16 a resident, the licensee or owner is guilty of a petty offense.  
17 An owner or licensee is guilty under this subsection (b) only  
18 if the owner or licensee failed to exercise reasonable care in  
19 the hiring, training, supervising or providing of staff or  
20 other related routine administrative responsibilities.

21           (c) Notwithstanding the penalties in subsections (a) and  
22 (b) and in addition thereto, if a licensee or owner of a long  
23 term care facility or his or her employee has caused gross  
24 neglect of a resident, the licensee or owner is guilty of a  
25 business offense for which a fine of not more than \$10,000 may  
26 be imposed. An owner or licensee is guilty under this

1 subsection (c) only if the owner or licensee failed to exercise  
2 reasonable care in the hiring, training, supervising or  
3 providing of staff or other related routine administrative  
4 responsibilities.

5 (d) For the purpose of this Section:

6 (1) "Abuse" means intentionally or knowingly causing  
7 any physical or mental injury or committing any sexual  
8 offense set forth in this Code.

9 (2) "Criminal neglect" means an act whereby a person  
10 recklessly (i) performs acts that cause an elderly person's  
11 or person with a disability's life to be endangered, health  
12 to be injured, or pre-existing physical or mental condition  
13 to deteriorate, or (ii) fails to perform acts that he or  
14 she knows or reasonably should know are necessary to  
15 maintain or preserve the life or health of an elderly  
16 person or person with a disability, and that failure causes  
17 the elderly person's or person with a disability's life to  
18 be endangered, health to be injured, or pre-existing  
19 physical or mental condition to deteriorate, or (iii)  
20 abandons an elderly person or person with a disability.

21 (3) "Neglect" means negligently failing to provide  
22 adequate medical or personal care or maintenance, which  
23 failure results in physical or mental injury or the  
24 deterioration of a physical or mental condition.

25 (4) "Resident" means a person residing in a long term  
26 care facility.

1           (5) "Owner" means the person who owns a long term care  
2           facility as provided under the Nursing Home Care Act, a  
3           facility as provided under the MR/DD Community Care Act, or  
4           an assisted living or shared housing establishment under  
5           the Assisted Living and Shared Housing Act.

6           (6) "Licensee" means the individual or entity licensed  
7           to operate a facility under the Nursing Home Care Act, the  
8           MR/DD Community Care Act, or the Assisted Living and Shared  
9           Housing Act.

10          (7) "Facility" or "long term care facility" means a  
11          private home, institution, building, residence, or any  
12          other place, whether operated for profit or not, or a  
13          county home for the infirm and chronically ill operated  
14          pursuant to Division 5-21 or 5-22 of the Counties Code, or  
15          any similar institution operated by the State of Illinois  
16          or a political subdivision thereof, which provides,  
17          through its ownership or management, personal care,  
18          sheltered care or nursing for 3 or more persons not related  
19          to the owner by blood or marriage. The term also includes  
20          skilled nursing facilities and intermediate care  
21          facilities as defined in Title XVIII and Title XIX of the  
22          federal Social Security Act and assisted living  
23          establishments and shared housing establishments licensed  
24          under the Assisted Living and Shared Housing Act.

25          (e) Nothing contained in this Section shall be deemed to  
26          apply to the medical supervision, regulation or control of the

1 remedial care or treatment of residents in a facility conducted  
2 for those who rely upon treatment by prayer or spiritual means  
3 in accordance with the creed or tenets of any well recognized  
4 church or religious denomination and which is licensed in  
5 accordance with Section 3-803 of the Nursing Home Care Act or  
6 Section 3-803 of the MR/DD Community Care Act.

7 (Source: P.A. 93-301, eff. 1-1-04.)

8 (720 ILCS 5/12-21) (from Ch. 38, par. 12-21)

9 Sec. 12-21. Criminal abuse or neglect of an elderly person  
10 or person with a disability.

11 (a) A person commits the offense of criminal abuse or  
12 neglect of an elderly person or person with a disability when  
13 he or she is a caregiver and he or she knowingly:

14 (1) performs acts that cause the elderly person or  
15 person with a disability's life to be endangered, health to  
16 be injured, or pre-existing physical or mental condition to  
17 deteriorate; or

18 (2) fails to perform acts that he or she knows or  
19 reasonably should know are necessary to maintain or  
20 preserve the life or health of the elderly person or person  
21 with a disability and such failure causes the elderly  
22 person or person with a disability's life to be endangered,  
23 health to be injured or pre-existing physical or mental  
24 condition to deteriorate; or

25 (3) abandons the elderly person or person with a

1 disability; or

2 (4) physically abuses, harasses, intimidates, or  
3 interferes with the personal liberty of the elderly person  
4 or person with a disability or exposes the elderly person  
5 or person with a disability to willful deprivation.

6 Criminal abuse or neglect of an elderly person or person  
7 with a disability is a Class 3 felony. Criminal neglect of an  
8 elderly person or person with a disability is a Class 2 felony  
9 if the criminal neglect results in the death of the person  
10 neglected for which the defendant, if sentenced to a term of  
11 imprisonment, shall be sentenced to a term of not less than 3  
12 years and not more than 14 years.

13 (b) For purposes of this Section:

14 (1) "Elderly person" means a person 60 years of age or  
15 older who is incapable of adequately providing for his own  
16 health and personal care.

17 (2) "Person with a disability" means a person who  
18 suffers from a permanent physical or mental impairment,  
19 resulting from disease, injury, functional disorder or  
20 congenital condition which renders such person incapable  
21 of adequately providing for his own health and personal  
22 care.

23 (3) "Caregiver" means a person who has a duty to  
24 provide for an elderly person or person with a disability's  
25 health and personal care, at such person's place of  
26 residence, including but not limited to, food and

1 nutrition, shelter, hygiene, prescribed medication and  
2 medical care and treatment.

3 "Caregiver" shall include:

4 (A) a parent, spouse, adult child or other relative  
5 by blood or marriage who resides with or resides in the  
6 same building with or regularly visits the elderly  
7 person or person with a disability, knows or reasonably  
8 should know of such person's physical or mental  
9 impairment and knows or reasonably should know that  
10 such person is unable to adequately provide for his own  
11 health and personal care;

12 (B) a person who is employed by the elderly person  
13 or person with a disability or by another to reside  
14 with or regularly visit the elderly person or person  
15 with a disability and provide for such person's health  
16 and personal care;

17 (C) a person who has agreed for consideration to  
18 reside with or regularly visit the elderly person or  
19 person with a disability and provide for such person's  
20 health and personal care; and

21 (D) a person who has been appointed by a private or  
22 public agency or by a court of competent jurisdiction  
23 to provide for the elderly person or person with a  
24 disability's health and personal care.

25 "Caregiver" shall not include a long-term care  
26 facility licensed or certified under the Nursing Home Care

1       Act or a facility licensed or certified under the MR/DD  
2       Community Care Act, or any administrative, medical or other  
3       personnel of such a facility, or a health care provider who  
4       is licensed under the Medical Practice Act of 1987 and  
5       renders care in the ordinary course of his profession.

6           (4) "Abandon" means to desert or knowingly forsake an  
7       elderly person or person with a disability under  
8       circumstances in which a reasonable person would continue  
9       to provide care and custody.

10          (5) "Willful deprivation" has the meaning ascribed to  
11       it in paragraph (15) of Section 103 of the Illinois  
12       Domestic Violence Act of 1986.

13          (c) Nothing in this Section shall be construed to limit the  
14       remedies available to the victim under the Illinois Domestic  
15       Violence Act.

16          (d) Nothing in this Section shall be construed to impose  
17       criminal liability on a person who has made a good faith effort  
18       to provide for the health and personal care of an elderly  
19       person or person with a disability, but through no fault of his  
20       own has been unable to provide such care.

21          (e) Nothing in this Section shall be construed as  
22       prohibiting a person from providing treatment by spiritual  
23       means through prayer alone and care consistent therewith in  
24       lieu of medical care and treatment in accordance with the  
25       tenets and practices of any church or religious denomination of  
26       which the elderly person or person with a disability is a

1 member.

2 (f) It is not a defense to criminal abuse or neglect of an  
3 elderly person or person with a disability that the accused  
4 reasonably believed that the victim was not an elderly person  
5 or person with a disability.

6 (Source: P.A. 92-328, eff. 1-1-02; 93-301, eff. 1-1-04.)

7 (720 ILCS 5/26-1) (from Ch. 38, par. 26-1)

8 Sec. 26-1. Elements of the Offense.

9 (a) A person commits disorderly conduct when he knowingly:

10 (1) Does any act in such unreasonable manner as to  
11 alarm or disturb another and to provoke a breach of the  
12 peace; or

13 (2) Transmits or causes to be transmitted in any manner  
14 to the fire department of any city, town, village or fire  
15 protection district a false alarm of fire, knowing at the  
16 time of such transmission that there is no reasonable  
17 ground for believing that such fire exists; or

18 (3) Transmits or causes to be transmitted in any manner  
19 to another a false alarm to the effect that a bomb or other  
20 explosive of any nature or a container holding poison gas,  
21 a deadly biological or chemical contaminant, or  
22 radioactive substance is concealed in such place that its  
23 explosion or release would endanger human life, knowing at  
24 the time of such transmission that there is no reasonable  
25 ground for believing that such bomb, explosive or a

1 container holding poison gas, a deadly biological or  
2 chemical contaminant, or radioactive substance is  
3 concealed in such place; or

4 (4) Transmits or causes to be transmitted in any manner  
5 to any peace officer, public officer or public employee a  
6 report to the effect that an offense will be committed, is  
7 being committed, or has been committed, knowing at the time  
8 of such transmission that there is no reasonable ground for  
9 believing that such an offense will be committed, is being  
10 committed, or has been committed; or

11 (5) Enters upon the property of another and for a lewd  
12 or unlawful purpose deliberately looks into a dwelling on  
13 the property through any window or other opening in it; or

14 (6) While acting as a collection agency as defined in  
15 the "Collection Agency Act" or as an employee of such  
16 collection agency, and while attempting to collect an  
17 alleged debt, makes a telephone call to the alleged debtor  
18 which is designed to harass, annoy or intimidate the  
19 alleged debtor; or

20 (7) Transmits or causes to be transmitted a false  
21 report to the Department of Children and Family Services  
22 under Section 4 of the "Abused and Neglected Child  
23 Reporting Act"; or

24 (8) Transmits or causes to be transmitted a false  
25 report to the Department of Public Health under the Nursing  
26 Home Care Act or the MR/DD Community Care Act; or

1           (9) Transmits or causes to be transmitted in any manner  
2           to the police department or fire department of any  
3           municipality or fire protection district, or any privately  
4           owned and operated ambulance service, a false request for  
5           an ambulance, emergency medical technician-ambulance or  
6           emergency medical technician-paramedic knowing at the time  
7           there is no reasonable ground for believing that such  
8           assistance is required; or

9           (10) Transmits or causes to be transmitted a false  
10          report under Article II of "An Act in relation to victims  
11          of violence and abuse", approved September 16, 1984, as  
12          amended; or

13          (11) Transmits or causes to be transmitted a false  
14          report to any public safety agency without the reasonable  
15          grounds necessary to believe that transmitting such a  
16          report is necessary for the safety and welfare of the  
17          public; or

18          (12) Calls the number "911" for the purpose of making  
19          or transmitting a false alarm or complaint and reporting  
20          information when, at the time the call or transmission is  
21          made, the person knows there is no reasonable ground for  
22          making the call or transmission and further knows that the  
23          call or transmission could result in the emergency response  
24          of any public safety agency.

25          (b) Sentence. A violation of subsection (a)(1) of this  
26          Section is a Class C misdemeanor. A violation of subsection

1 (a) (5), (a) (11), or (a) (12) of this Section is a Class A  
2 misdemeanor. A violation of subsection (a) (8) or (a) (10) of  
3 this Section is a Class B misdemeanor. A violation of  
4 subsection (a) (2), (a) (4), (a) (7), or (a) (9) of this Section is  
5 a Class 4 felony. A violation of subsection (a) (3) of this  
6 Section is a Class 3 felony, for which a fine of not less than  
7 \$3,000 and no more than \$10,000 shall be assessed in addition  
8 to any other penalty imposed.

9 A violation of subsection (a) (6) of this Section is a  
10 Business Offense and shall be punished by a fine not to exceed  
11 \$3,000. A second or subsequent violation of subsection (a) (7),  
12 (a) (11), or (a) (12) of this Section is a Class 4 felony. A  
13 third or subsequent violation of subsection (a) (5) of this  
14 Section is a Class 4 felony.

15 (c) In addition to any other sentence that may be imposed,  
16 a court shall order any person convicted of disorderly conduct  
17 to perform community service for not less than 30 and not more  
18 than 120 hours, if community service is available in the  
19 jurisdiction and is funded and approved by the county board of  
20 the county where the offense was committed. In addition,  
21 whenever any person is placed on supervision for an alleged  
22 offense under this Section, the supervision shall be  
23 conditioned upon the performance of the community service.

24 This subsection does not apply when the court imposes a  
25 sentence of incarceration.

26 (Source: P.A. 92-16, eff. 6-28-01; 92-502, eff. 12-19-01;

1 93-431, eff. 8-5-03.)

2 Section 90-185. The Unified Code of Corrections is amended  
3 by changing Section 5-5-3.2 as follows:

4 (730 ILCS 5/5-5-3.2) (from Ch. 38, par. 1005-5-3.2)

5 Sec. 5-5-3.2. Factors in Aggravation.

6 (a) The following factors shall be accorded weight in favor  
7 of imposing a term of imprisonment or may be considered by the  
8 court as reasons to impose a more severe sentence under Section  
9 5-8-1:

10 (1) the defendant's conduct caused or threatened  
11 serious harm;

12 (2) the defendant received compensation for committing  
13 the offense;

14 (3) the defendant has a history of prior delinquency or  
15 criminal activity;

16 (4) the defendant, by the duties of his office or by  
17 his position, was obliged to prevent the particular offense  
18 committed or to bring the offenders committing it to  
19 justice;

20 (5) the defendant held public office at the time of the  
21 offense, and the offense related to the conduct of that  
22 office;

23 (6) the defendant utilized his professional reputation  
24 or position in the community to commit the offense, or to

1 afford him an easier means of committing it;

2 (7) the sentence is necessary to deter others from  
3 committing the same crime;

4 (8) the defendant committed the offense against a  
5 person 60 years of age or older or such person's property;

6 (9) the defendant committed the offense against a  
7 person who is physically handicapped or such person's  
8 property;

9 (10) by reason of another individual's actual or  
10 perceived race, color, creed, religion, ancestry, gender,  
11 sexual orientation, physical or mental disability, or  
12 national origin, the defendant committed the offense  
13 against (i) the person or property of that individual; (ii)  
14 the person or property of a person who has an association  
15 with, is married to, or has a friendship with the other  
16 individual; or (iii) the person or property of a relative  
17 (by blood or marriage) of a person described in clause (i)  
18 or (ii). For the purposes of this Section, "sexual  
19 orientation" means heterosexuality, homosexuality, or  
20 bisexuality;

21 (11) the offense took place in a place of worship or on  
22 the grounds of a place of worship, immediately prior to,  
23 during or immediately following worship services. For  
24 purposes of this subparagraph, "place of worship" shall  
25 mean any church, synagogue or other building, structure or  
26 place used primarily for religious worship;

1           (12) the defendant was convicted of a felony committed  
2 while he was released on bail or his own recognizance  
3 pending trial for a prior felony and was convicted of such  
4 prior felony, or the defendant was convicted of a felony  
5 committed while he was serving a period of probation,  
6 conditional discharge, or mandatory supervised release  
7 under subsection (d) of Section 5-8-1 for a prior felony;

8           (13) the defendant committed or attempted to commit a  
9 felony while he was wearing a bulletproof vest. For the  
10 purposes of this paragraph (13), a bulletproof vest is any  
11 device which is designed for the purpose of protecting the  
12 wearer from bullets, shot or other lethal projectiles;

13           (14) the defendant held a position of trust or  
14 supervision such as, but not limited to, family member as  
15 defined in Section 12-12 of the Criminal Code of 1961,  
16 teacher, scout leader, baby sitter, or day care worker, in  
17 relation to a victim under 18 years of age, and the  
18 defendant committed an offense in violation of Section  
19 11-6, 11-11, 11-15.1, 11-19.1, 11-19.2, 11-20.1, 12-13,  
20 12-14, 12-14.1, 12-15 or 12-16 of the Criminal Code of 1961  
21 against that victim;

22           (15) the defendant committed an offense related to the  
23 activities of an organized gang. For the purposes of this  
24 factor, "organized gang" has the meaning ascribed to it in  
25 Section 10 of the Streetgang Terrorism Omnibus Prevention  
26 Act;

1           (16) the defendant committed an offense in violation of  
2 one of the following Sections while in a school, regardless  
3 of the time of day or time of year; on any conveyance  
4 owned, leased, or contracted by a school to transport  
5 students to or from school or a school related activity; on  
6 the real property of a school; or on a public way within  
7 1,000 feet of the real property comprising any school:  
8 Section 10-1, 10-2, 10-5, 11-15.1, 11-17.1, 11-18.1,  
9 11-19.1, 11-19.2, 12-2, 12-4, 12-4.1, 12-4.2, 12-4.3,  
10 12-6, 12-6.1, 12-13, 12-14, 12-14.1, 12-15, 12-16, 18-2, or  
11 33A-2 of the Criminal Code of 1961;

12           (16.5) the defendant committed an offense in violation  
13 of one of the following Sections while in a day care  
14 center, regardless of the time of day or time of year; on  
15 the real property of a day care center, regardless of the  
16 time of day or time of year; or on a public way within  
17 1,000 feet of the real property comprising any day care  
18 center, regardless of the time of day or time of year:  
19 Section 10-1, 10-2, 10-5, 11-15.1, 11-17.1, 11-18.1,  
20 11-19.1, 11-19.2, 12-2, 12-4, 12-4.1, 12-4.2, 12-4.3,  
21 12-6, 12-6.1, 12-13, 12-14, 12-14.1, 12-15, 12-16, 18-2, or  
22 33A-2 of the Criminal Code of 1961;

23           (17) the defendant committed the offense by reason of  
24 any person's activity as a community policing volunteer or  
25 to prevent any person from engaging in activity as a  
26 community policing volunteer. For the purpose of this

1 Section, "community policing volunteer" has the meaning  
2 ascribed to it in Section 2-3.5 of the Criminal Code of  
3 1961;

4 (18) the defendant committed the offense in a nursing  
5 home or on the real property comprising a nursing home. For  
6 the purposes of this paragraph (18), "nursing home" means a  
7 skilled nursing or intermediate long term care facility  
8 that is subject to license by the Illinois Department of  
9 Public Health under the Nursing Home Care Act or the MR/DD  
10 Community Care Act;

11 (19) the defendant was a federally licensed firearm  
12 dealer and was previously convicted of a violation of  
13 subsection (a) of Section 3 of the Firearm Owners  
14 Identification Card Act and has now committed either a  
15 felony violation of the Firearm Owners Identification Card  
16 Act or an act of armed violence while armed with a firearm;

17 (20) the defendant (i) committed the offense of  
18 reckless homicide under Section 9-3 of the Criminal Code of  
19 1961 or the offense of driving under the influence of  
20 alcohol, other drug or drugs, intoxicating compound or  
21 compounds or any combination thereof under Section 11-501  
22 of the Illinois Vehicle Code or a similar provision of a  
23 local ordinance and (ii) was operating a motor vehicle in  
24 excess of 20 miles per hour over the posted speed limit as  
25 provided in Article VI of Chapter 11 of the Illinois  
26 Vehicle Code;

1           (21) the defendant (i) committed the offense of  
2 reckless driving or aggravated reckless driving under  
3 Section 11-503 of the Illinois Vehicle Code and (ii) was  
4 operating a motor vehicle in excess of 20 miles per hour  
5 over the posted speed limit as provided in Article VI of  
6 Chapter 11 of the Illinois Vehicle Code;

7           (22) the defendant committed the offense against a  
8 person that the defendant knew, or reasonably should have  
9 known, was a member of the Armed Forces of the United  
10 States serving on active duty. For purposes of this clause  
11 (22), the term "Armed Forces" means any of the Armed Forces  
12 of the United States, including a member of any reserve  
13 component thereof or National Guard unit called to active  
14 duty; ~~or~~

15           (23) the defendant committed the offense against a  
16 person who was elderly, disabled, or infirm by taking  
17 advantage of a family or fiduciary relationship with the  
18 elderly, disabled, or infirm person; or.

19           (24) ~~(22)~~ the defendant committed any offense under  
20 Section 11-20.1 of the Criminal Code of 1961 and possessed  
21 100 or more images.

22 For the purposes of this Section:

23 "School" is defined as a public or private elementary or  
24 secondary school, community college, college, or university.

25 "Day care center" means a public or private State certified  
26 and licensed day care center as defined in Section 2.09 of the

1 Child Care Act of 1969 that displays a sign in plain view  
2 stating that the property is a day care center.

3 (b) The following factors may be considered by the court as  
4 reasons to impose an extended term sentence under Section 5-8-2  
5 upon any offender:

6 (1) When a defendant is convicted of any felony, after  
7 having been previously convicted in Illinois or any other  
8 jurisdiction of the same or similar class felony or greater  
9 class felony, when such conviction has occurred within 10  
10 years after the previous conviction, excluding time spent  
11 in custody, and such charges are separately brought and  
12 tried and arise out of different series of acts; or

13 (2) When a defendant is convicted of any felony and the  
14 court finds that the offense was accompanied by  
15 exceptionally brutal or heinous behavior indicative of  
16 wanton cruelty; or

17 (3) When a defendant is convicted of voluntary  
18 manslaughter, second degree murder, involuntary  
19 manslaughter or reckless homicide in which the defendant  
20 has been convicted of causing the death of more than one  
21 individual; or

22 (4) When a defendant is convicted of any felony  
23 committed against:

24 (i) a person under 12 years of age at the time of  
25 the offense or such person's property;

26 (ii) a person 60 years of age or older at the time

1 of the offense or such person's property; or

2 (iii) a person physically handicapped at the time

3 of the offense or such person's property; or

4 (5) In the case of a defendant convicted of aggravated  
5 criminal sexual assault or criminal sexual assault, when  
6 the court finds that aggravated criminal sexual assault or  
7 criminal sexual assault was also committed on the same  
8 victim by one or more other individuals, and the defendant  
9 voluntarily participated in the crime with the knowledge of  
10 the participation of the others in the crime, and the  
11 commission of the crime was part of a single course of  
12 conduct during which there was no substantial change in the  
13 nature of the criminal objective; or

14 (6) When a defendant is convicted of any felony and the  
15 offense involved any of the following types of specific  
16 misconduct committed as part of a ceremony, rite,  
17 initiation, observance, performance, practice or activity  
18 of any actual or ostensible religious, fraternal, or social  
19 group:

20 (i) the brutalizing or torturing of humans or  
21 animals;

22 (ii) the theft of human corpses;

23 (iii) the kidnapping of humans;

24 (iv) the desecration of any cemetery, religious,  
25 fraternal, business, governmental, educational, or  
26 other building or property; or

1 (v) ritualized abuse of a child; or

2 (7) When a defendant is convicted of first degree  
3 murder, after having been previously convicted in Illinois  
4 of any offense listed under paragraph (c)(2) of Section  
5 5-5-3, when such conviction has occurred within 10 years  
6 after the previous conviction, excluding time spent in  
7 custody, and such charges are separately brought and tried  
8 and arise out of different series of acts; or

9 (8) When a defendant is convicted of a felony other  
10 than conspiracy and the court finds that the felony was  
11 committed under an agreement with 2 or more other persons  
12 to commit that offense and the defendant, with respect to  
13 the other individuals, occupied a position of organizer,  
14 supervisor, financier, or any other position of management  
15 or leadership, and the court further finds that the felony  
16 committed was related to or in furtherance of the criminal  
17 activities of an organized gang or was motivated by the  
18 defendant's leadership in an organized gang; or

19 (9) When a defendant is convicted of a felony violation  
20 of Section 24-1 of the Criminal Code of 1961 and the court  
21 finds that the defendant is a member of an organized gang;  
22 or

23 (10) When a defendant committed the offense using a  
24 firearm with a laser sight attached to it. For purposes of  
25 this paragraph (10), "laser sight" has the meaning ascribed  
26 to it in Section 24.6-5 of the Criminal Code of 1961; or

1           (11) When a defendant who was at least 17 years of age  
2           at the time of the commission of the offense is convicted  
3           of a felony and has been previously adjudicated a  
4           delinquent minor under the Juvenile Court Act of 1987 for  
5           an act that if committed by an adult would be a Class X or  
6           Class 1 felony when the conviction has occurred within 10  
7           years after the previous adjudication, excluding time  
8           spent in custody; or

9           (12) When a defendant commits an offense involving the  
10          illegal manufacture of a controlled substance under  
11          Section 401 of the Illinois Controlled Substances Act, the  
12          illegal manufacture of methamphetamine under Section 25 of  
13          the Methamphetamine Control and Community Protection Act,  
14          or the illegal possession of explosives and an emergency  
15          response officer in the performance of his or her duties is  
16          killed or injured at the scene of the offense while  
17          responding to the emergency caused by the commission of the  
18          offense. In this paragraph (12), "emergency" means a  
19          situation in which a person's life, health, or safety is in  
20          jeopardy; and "emergency response officer" means a peace  
21          officer, community policing volunteer, fireman, emergency  
22          medical technician-ambulance, emergency medical  
23          technician-intermediate, emergency medical  
24          technician-paramedic, ambulance driver, other medical  
25          assistance or first aid personnel, or hospital emergency  
26          room personnel; or

1           (13) When a defendant commits any felony and the  
2 defendant used, possessed, exercised control over, or  
3 otherwise directed an animal to assault a law enforcement  
4 officer engaged in the execution of his or her official  
5 duties or in furtherance of the criminal activities of an  
6 organized gang in which the defendant is engaged.

7           (b-1) For the purposes of this Section, "organized gang"  
8 has the meaning ascribed to it in Section 10 of the Illinois  
9 Streetgang Terrorism Omnibus Prevention Act.

10          (c) The court may impose an extended term sentence under  
11 Section 5-8-2 upon any offender who was convicted of aggravated  
12 criminal sexual assault or predatory criminal sexual assault of  
13 a child under subsection (a)(1) of Section 12-14.1 of the  
14 Criminal Code of 1961 where the victim was under 18 years of  
15 age at the time of the commission of the offense.

16          (d) The court may impose an extended term sentence under  
17 Section 5-8-2 upon any offender who was convicted of unlawful  
18 use of weapons under Section 24-1 of the Criminal Code of 1961  
19 for possessing a weapon that is not readily distinguishable as  
20 one of the weapons enumerated in Section 24-1 of the Criminal  
21 Code of 1961.

22          (e) The court may impose an extended term sentence under  
23 Section 5-8-2 upon an offender who has been convicted of first  
24 degree murder when the offender has previously been convicted  
25 of domestic battery or aggravated domestic battery committed  
26 against the murdered individual or has previously been

1 convicted of violation of an order of protection in which the  
2 murdered individual was the protected person.

3 (Source: P.A. 94-131, eff. 7-7-05; 94-375, eff. 1-1-06; 94-556,  
4 eff. 9-11-05; 94-819, eff. 5-31-06; 95-85, eff. 1-1-08; 95-362,  
5 eff. 1-1-08; 95-569, eff. 6-1-08; 95-876, eff. 8-21-08; 95-942,  
6 eff. 1-1-09; revised 9-23-08.)

7 Section 90-190. The Code of Civil Procedure is amended by  
8 changing Section 2-203 as follows:

9 (735 ILCS 5/2-203) (from Ch. 110, par. 2-203)

10 Sec. 2-203. Service on individuals.

11 (a) Except as otherwise expressly provided, service of  
12 summons upon an individual defendant shall be made (1) by  
13 leaving a copy of the summons with the defendant personally,  
14 (2) by leaving a copy at the defendant's usual place of abode,  
15 with some person of the family or a person residing there, of  
16 the age of 13 years or upwards, and informing that person of  
17 the contents of the summons, provided the officer or other  
18 person making service shall also send a copy of the summons in  
19 a sealed envelope with postage fully prepaid, addressed to the  
20 defendant at his or her usual place of abode, or (3) as  
21 provided in Section 1-2-9.2 of the Illinois Municipal Code with  
22 respect to violation of an ordinance governing parking or  
23 standing of vehicles in cities with a population over 500,000.  
24 The certificate of the officer or affidavit of the person that

1 he or she has sent the copy in pursuance of this Section is  
2 evidence that he or she has done so. No employee of a facility  
3 licensed under the Nursing Home Care Act or the MR/DD Community  
4 Care Act shall obstruct an officer or other person making  
5 service in compliance with this Section.

6 (b) The officer, in his or her certificate or in a record  
7 filed and maintained in the Sheriff's office, or other person  
8 making service, in his or her affidavit or in a record filed  
9 and maintained in his or her employer's office, shall (1)  
10 identify as to sex, race, and approximate age the defendant or  
11 other person with whom the summons was left and (2) state the  
12 place where (whenever possible in terms of an exact street  
13 address) and the date and time of the day when the summons was  
14 left with the defendant or other person.

15 (c) Any person who knowingly sets forth in the certificate  
16 or affidavit any false statement, shall be liable in civil  
17 contempt. When the court holds a person in civil contempt under  
18 this Section, it shall award such damages as it determines to  
19 be just and, when the contempt is prosecuted by a private  
20 attorney, may award reasonable attorney's fees.

21 (Source: P.A. 95-858, eff. 8-18-08.)

22 Section 90-195. The Consumer Fraud and Deceptive Business  
23 Practices Act is amended by changing Section 2BBB as follows:

24 (815 ILCS 505/2BBB)

1           Sec. 2BBB ~~277~~. Long term care or MR/DD facility; Consumer  
2 Choice Information Report. A long term care facility that fails  
3 to comply with Section 2-214 of the Nursing Home Care Act or a  
4 facility that fails to comply with Section 2-214 of the MR/DD  
5 Community Care Act commits an unlawful practice within the  
6 meaning of this Act.

7 (Source: P.A. 95-823, eff. 1-1-09; revised 9-25-08.)

8                                   ARTICLE 99. EFFECTIVE DATE

9           Section 99-99. Effective date. This Act takes effect upon  
10 becoming law.

1

## INDEX

2

## Statutes amended in order of appearance

3 New Act

4 20 ILCS 1305/1-17

5 20 ILCS 1705/15 from Ch. 91 1/2, par. 100-15

6 20 ILCS 2310/2310-550 was 20 ILCS 2310/55.40

7 20 ILCS 2310/2310-560 was 20 ILCS 2310/55.87

8 20 ILCS 2310/2310-565 was 20 ILCS 2310/55.88

9 20 ILCS 2310/2310-625

10 20 ILCS 2407/52

11 20 ILCS 2435/15 from Ch. 23, par. 3395-15

12 20 ILCS 3501/801-10

13 20 ILCS 3960/3 from Ch. 111 1/2, par. 1153

14 20 ILCS 3960/12 from Ch. 111 1/2, par. 1162

15 20 ILCS 3960/13 from Ch. 111 1/2, par. 1163

16 20 ILCS 3960/14.1

17 30 ILCS 772/10

18 35 ILCS 5/806

19 35 ILCS 105/3-5 from Ch. 120, par. 439.3-5

20 35 ILCS 110/3-5 from Ch. 120, par. 439.33-5

21 35 ILCS 110/3-10 from Ch. 120, par. 439.33-10

22 35 ILCS 115/3-5 from Ch. 120, par. 439.103-5

23 35 ILCS 115/3-10 from Ch. 120, par. 439.103-10

24 35 ILCS 120/2-5 from Ch. 120, par. 441-5

25 70 ILCS 3615/4.03 from Ch. 111 2/3, par. 704.03

1	210 ILCS 5/3	from Ch. 111 1/2, par. 157-8.3
2	210 ILCS 9/10	
3	210 ILCS 9/35	
4	210 ILCS 9/55	
5	210 ILCS 9/75	
6	210 ILCS 28/10	
7	210 ILCS 28/50	
8	210 ILCS 30/3	from Ch. 111 1/2, par. 4163
9	210 ILCS 30/4	from Ch. 111 1/2, par. 4164
10	210 ILCS 30/6	from Ch. 111 1/2, par. 4166
11	210 ILCS 45/1-113	from Ch. 111 1/2, par. 4151-113
12	210 ILCS 45/3-202.5	
13	210 ILCS 45/3-206	from Ch. 111 1/2, par. 4153-206
14	210 ILCS 55/2.08	
15	210 ILCS 60/3	from Ch. 111 1/2, par. 6103
16	210 ILCS 60/4	from Ch. 111 1/2, par. 6104
17	210 ILCS 85/3	from Ch. 111 1/2, par. 144
18	210 ILCS 85/6.09	from Ch. 111 1/2, par. 147.09
19	210 ILCS 87/10	
20	210 ILCS 135/4	from Ch. 91 1/2, par. 1704
21	225 ILCS 10/2.06	from Ch. 23, par. 2212.06
22	225 ILCS 46/15	
23	225 ILCS 70/4	from Ch. 111, par. 3654
24	225 ILCS 70/17	from Ch. 111, par. 3667
25	225 ILCS 85/3	from Ch. 111, par. 4123
26	225 ILCS 510/3	from Ch. 111, par. 953

1	305 ILCS 5/5-5.4	from Ch. 23, par. 5-5.4
2	305 ILCS 5/5-5.7	from Ch. 23, par. 5-5.7
3	305 ILCS 5/5-6	from Ch. 23, par. 5-6
4	305 ILCS 5/5B-1	from Ch. 23, par. 5B-1
5	305 ILCS 5/5B-8	from Ch. 23, par. 5B-8
6	305 ILCS 5/5E-5	
7	305 ILCS 5/8A-11	from Ch. 23, par. 8A-11
8	305 ILCS 40/5	from Ch. 23, par. 7100-5
9	405 ILCS 5/2-107	from Ch. 91 1/2, par. 2-107
10	405 ILCS 40/1	from Ch. 91 1/2, par. 1151
11	405 ILCS 80/2-3	from Ch. 91 1/2, par. 1802-3
12	405 ILCS 80/5-1	from Ch. 91 1/2, par. 1805-1
13	425 ILCS 10/1	from Ch. 127 1/2, par. 821
14	720 ILCS 5/12-19	from Ch. 38, par. 12-19
15	720 ILCS 5/12-21	from Ch. 38, par. 12-21
16	720 ILCS 5/26-1	from Ch. 38, par. 26-1
17	730 ILCS 5/5-5-3.2	from Ch. 38, par. 1005-5-3.2
18	735 ILCS 5/2-203	from Ch. 110, par. 2-203
19	815 ILCS 505/2BBB	